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should be consulted on any changes in that Treaty. And as I pointed out earlier, the status of Okinawa was fixed in the Treaty of Peace.

My amendment was adopted by the Senate by a vote of 63-14. Subsequently, in a communique issued after the meetings between President Nixon and Prime Minister Sato, it was declared that reversion of Okinawa was conditioned on "necessary legislative support."

Unofficially, I learned from the State Department that my amendment was helpful in the negotiations with Japan last Fall. In my opinion, the amendment led to the inclusion in the communique of the provision for legislative support.

I assume that the communique means that the proposed change in the status of Okinawa will either be submitted to Congress as a whole, requiring a majority vote in both Houses, or to the Senate as a treaty change, requiring a two-thirds vote in the Senate only.

I have been doing a good deal of work among my Senate colleagues, and I have been surprised to find the extent of the support in the Senate for maintaining U.S. control of Okinawa. I am encouraged by the number of Senators who agree with me on this point.

I have discussed the background and attitude of the Senate on two representative issues in defense and foreign affairs: the nuclear aircraft carrier force and the island of Okinawa.

During the early days of our Republic, when the checks and balances of our federal system were undergoing their first test, President George Washington went to the Senate one day to discuss a treaty with the Southern Indians.

Historians record that his reception was so icy that he vowed "he would be damned if he ever went there again."

A certain amount of tension between the Executive and Legislative branches of the government is built into our system. It is inevitable, under the terms of the Constitution, and it has not served us badly.

At the present time, as we have seen, the Senate is in a mood that is at once skeptical and assertive. Therefore, conflict between the Administration and the Senate is bound to be somewhat heightened.

I believe that a careful distinction must be made between the powers of Congress and those of the President in foreign affairs.

I feel that the Congress must assert itself in the field of foreign policy. I have worked toward that end since coming to the Senate, and with some success.

But I have never advocated the Senate interfering in military tactics. We cannot have 100 commanders-in-chief.

For example, I initially had grave concern about having U.S. ground troops in Cambodia, fearing that a commitment to the Cambodian government might have been made. But President Nixon, in a White House meeting, assured me there was no such commitment.

I was assured that the operation was a temporary military tactic to protect our own forces and that the troops would be withdrawn before July 1 at the latest.

In the Senate, we must differentiate between temporary military tactics on the one hand—and a commitment to guarantee the security of a foreign government on the other.

The distinction between the role of the Senate in foreign policy and the duties of the President as commander-in-chief, is an important one. I believe that if the Senate and the President mutually recognize this distinction, much of the friction we are now experiencing can be eliminated, and there can be a spirit of cooperation for the good of the country.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT NO. 706

Mr. MILLER. Mr. President, I call up amendment No. 706 and ask that it be stated.

The PRESIDING OFFICER (Mr. HARRIS). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 7, beginning with line 1, strike all through line 2 on page 8.

The language sought to be stricken is as follows:

SEC. 10. (a) No excess defense article may be given, and no grant of military assistance may be made, to a foreign country unless the country agrees—

(1) to deposit in a special account established by that country the following amounts of currency of that country:

(A) in the case of any excess defense article to be given to that country, an amount equal to 50 per centum of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

(B) in the case of a grant of military assistance to be made to that country, an amount equal to 50 per centum of each such grant; and

(2) to make available to the United States Government, for use in paying obligations of the United States in that country and in financing international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961, such portion of the special account of that country as may be determined, from time to time, by the President to be necessary for any such use.

(b) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section.

The PRESIDING OFFICER (Mr. HARRIS). The Chair informs the Senate that this amendment will be considered under an order limiting the debate to 4 hours, to be divided equally between the Senator from Iowa and the majority leader or his designee.

Mr. MILLER. Mr. President, I ask unanimous consent that I may yield to the Senator from Colorado without losing my right to the floor.

The PRESIDING OFFICER (Mr. HARRIS). Does the Senator wish that time to come from his time?

Mr. MILLER. That is correct.

The PRESIDING OFFICER (Mr. HARRIS). Without objection, it is so ordered. How much time does the Senator yield to the Senator from Colorado?

Mr. MILLER. Mr. President, I yield such time as the Senator from Colorado may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

May we have order in the Senate, please.

Mr. ALLOTT. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. HARRIS). The Senator is quite correct. The

Senator will not proceed until we have order in the Senate. Senators will please do their visiting in the cloakrooms.

The Senator from Colorado may proceed.

NEWSPAPER REPORTING

Mr. ALLOTT. Mr. President, I want to begin my few remarks today by referring to an article in the Washington Post of this morning. On page A8, there is an article entitled "Tonkin Repeal Due Today; Effect of Action Uncertain."

In the latter part of that article there is a news report, which I understand evoked considerable comment on the floor of the Senate earlier today. I am sorry that I was unable to be present but I was attending a conference committee session on the supplemental appropriations bill.

The article reads in part as follows:

Sen. Gordon L. Allott (R-Colo.) said administration backers might try to force the hand of Senate doves by calling up the McGovern-Hatfield "amendment to end the war" for an early vote. This proposal would cut off funds for any Indochina involvement after Dec. 31, 1970.

It is "common talk down on the floor" Allott said at a news conference, that some senator might offer the same amendment early in an attempt to defeat it before its backers can strengthen their forces. This vote has been slated for July or August.

Mr. President, I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

TONKIN REPEAL DUE TODAY; EFFECT OF ACTION UNCERTAIN

(By Phillip D. Carter)

With repeal of the 1964 Gulf of Tonkin resolution headed toward certain passage today, the Senate divided yesterday over the significance of its coming action.

Administration backers reiterated President Nixon's conviction that repeal would in no way restrict his conduct of the war in Indochina. But in a lengthy address, Sen. J. W. Fulbright (D-Ark.) sharply warned that the present timing and context of repeal might constitute "a legislative surrender of power to the President."

"We still have not made clear," said Fulbright, "that the war power—the creation of situations making war inevitable—is a power to be exercised by the Congress alone." As chairman of the Senate Foreign Relations Committee, Fulbright has strongly backed other efforts to repeal the Tonkin Gulf measure, passed overwhelmingly in 1964.

Discussion of the "Tonkin Gulf repealer" dominated yesterday's continuing debate over the Cooper-Church proposal to prevent U.S. military involvement in Cambodia after July 1.

Sen. Robert J. Dole (R-Kans.), proposed the repeal Monday as a surprise amendment to the Cooper-Church proposal. His action closely followed passage of another amendment, offered by Sen. Robert C. Byrd (D-W. Va.), acknowledging the President's right "to protect the lives of United States Armed Forces wherever deployed."

Fulbright said yesterday he feared that the manner of the two amendments' passage would only strengthen presidential war powers at the expense of the legislative branch. He went on:

"What we have done the last two days by hasty adoption of the Byrd amendment and by action on the Dole amendment... is to give the President a clear legislative

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an air wing to a foreign base involves putting at least 5,000 men on foreign soil, in addition to the facility itself. Furthermore, the quality of foreign troops that may be available is unknown, and it could be that Army troops would be required to guard the base.

The carrier is a very versatile weapon. Its use is certainly not confined to the so-called "brushfire" conflicts, but is adaptable—indeed, is essential—to maintaining our general superiority at sea.

Unless we wish to get out of the seapower business entirely—and that would be to surrender our freedom of action as a nation—we had better keep modern carriers in our fleet. The carrier is capable of holding the balance of power on the high seas.

The carriers' opponents argue that the ships are too vulnerable.

It must be admitted, of course, that they can be attacked, just as any other ship can be attacked. But the carrier is the toughest of all our ships: not only is it protected by its own aircraft and escorts, but it is built to withstand attack.

Sometimes opponents of the new aircraft carriers maintain that the issue is whether or not the Navy needs 15 carriers. That is the present force level.

It is my view, however, that the issue is not whether we need 15 carriers, or 12, or 10, or 8, but whether or not we are going to have a modern Navy. I cannot conceive that the fleet needs fewer than 4 carriers, and it seems to me evident that these ships should be nuclear-powered.

That brings us to the present situation in the Senate, which is a bit complicated.

It was widely assumed that this year Congress would be asked to authorize a fourth nuclear-powered aircraft carrier, the third of the Nimitz series. But no request for funds has come from the Administration.

Personally, I favor a fourth carrier. A majority of the Armed Services Committee favors such a ship.

But lacking a request from the Administration, the funds certainly will not be authorized. Even if the Armed Services Committee were to approve this money, it would be defeated on the floor of the Senate.

It was difficult enough to win authorization for a third carrier last year, with solid Administration backing. It would be simply impossible to get approval of a fourth carrier this year with no such support.

Therefore, it seems to me that the only hope for funds for the fourth carrier in the current fiscal year would be a supplemental Defense Department appropriation. I understand that the National Security Council now is reviewing the requirement for carriers and that a recommendation will be forthcoming in a few months.

If the recommendation is favorable, there is hope for the new carrier this year. If it is unfavorable, there is just no chance of approval. The opposition is strong enough to block authorization of the ship unless there is a firm request from the Administration.

Turning from the field of military hardware to the broader area of military posture, I would like to discuss the question of control of our military bases on the island of Okinawa.

Okinawa, and in fact the whole U.S. position in the Far East, is part of the heritage of World War II, which ended a quarter century ago.

During the past quarter century, the United States has been involved in three major wars, counting World War II. I doubt that any other nation in history during such a short period of time, has engaged in three different major wars.

The U.S. Senate, under the Constitution, has a responsibility for foreign policy.

Too often during the past 25 years, the Senate has abdicated its responsibility in the field of foreign affairs, relying instead on the Department of State. Now I know that within

that Department the overwhelming majority are dedicated, conscientious individuals; I know, too, that many of them are men of great ability.

But, I know also that whatever the reason, or wherever the responsibility may lie, the fact is that our nation in this year of 1970 finds itself in a most unenviable position.

We are the dominant party in the North Atlantic Treaty Organization, the purpose of which is to guarantee the freedom of Europe; we are the dominant party of ANZUS—the treaty among Australia, New Zealand, and the United States; we are the military head of CENTO—Central Treaty Organization—Turkey, Iran and Pakistan; we are the dominant partner in the Southeast Asia Treaty Organization, one of the prime reasons, according to former Secretary of State, Dean Rusk, that the United States became involved in the war in Vietnam; we have guaranteed the security of Free China, and, we have guaranteed the security of Japan.

As a practical matter, we have become the policeman of the world.

Can we logically continue in this role? Should we, even if we could?

Twenty-five years after the defeat of Germany, we have 300,000 troops in Europe, mostly in West Germany.

Twenty-five years after the defeat of Japan, we have more than 700,000 military personnel in the Far Pacific, on land and sea.

The question of Okinawa is of great significance to our position in the Pacific. Okinawa is our most important single military base complex in the Far East—and is strategically located.

The United States has had unrestricted use of the island since World War II. Beginning with President Eisenhower, each administration since 1951—until last year—firmly maintained that the unrestricted use of U.S. bases on Okinawa was vital if the United States was to continue to have obligations in the Far East.

Sometimes the future status of Okinawa has been linked to the United States-Japan Mutual Security Treaty in which the United States guarantees the freedom and safety of Japan. Such linkage is not correct. These are two separate issues.

The Mutual Security Treaty with Japan was consummated in 1960. Either party has the right to reopen it after 10 years, otherwise it remains in effect.

But the status of Okinawa was determined by the 1952 Treaty of Peace with Japan. There is no legal obligation to discuss reversion of the island to Japan at this or any other time.

The United States has complete administrative authority over the Ryukyu Islands, the largest of which is Okinawa, under the provisions of Article 3 of the 1952 Treaty of Peace. This peace treaty is entirely separate—and I want to emphasize that—from the 1960 Mutual Defense Treaty with Japan.

The Japanese Government recognizes the important contribution of our Okinawa bases to Japanese and Asian security and is not likely to seek the removal of our bases. The Japanese Government does, however, want administrative control of the island which supports our major military base complex in the West Pacific.

To state it another way, the Japanese Government wants the United States to continue to guarantee the safety of Japan; to continue to guarantee the safety of Okinawa; to continue to spend hundreds of millions of dollars on Okinawa—\$280 million last year. But it seeks to put restrictions on what the United States can do.

Japan wants a veto over any U.S. action affecting Okinawa, it specifically wants the right to deny to the United States the authority to store nuclear weapons on Okinawa and would require prior consultation before our military forces based there could be used.

In other words, the United States no longer would have unrestricted use of Okinawa.

Our role as the defender of the Far East has enabled Japan to avoid the burden of rearmament—less than 1 percent of her Gross National Product is spent on defense. Thus she concentrates on expanding and modernizing her domestic economy.

In defense matters, the Japanese have gotten a free ride. As a direct result, Japan's present Gross National Product is over \$120 billion, and economically, Japan ranks third in the world, behind only the United States and the Soviet Union.

While the peace treaty with Japan gives the United States unrestricted rights on Okinawa, the 1960 Mutual Security Treaty provides that our military forces based in Japan cannot be used without prior consultation with the Japanese Government.

For example, when the North Koreans seized the U.S.S. Pueblo in 1968, Admiral Frank L. Johnson, Commander of Naval Forces in Japan, testified that one reason aid could not be sent to the Pueblo was that approval first must be obtained from the Japanese Government to use U.S. aircraft based in Japan, those being the nearest aircraft available.

The Japanese Government now seeks to extend such authority to Okinawa.

Whether the United States should continue to guarantee the freedom of Japan, and Free China; whether we should continue the mutual defense arrangements covering the eight countries signing the Southeast Asia Treaty; plus the Philippines; plus Australia and New Zealand; plus Thailand, Laos and Vietnam, is debatable.

But what is clear-cut commonsense, in my judgment, is that if we are to continue to guarantee the security of the Asian nations—and our Government has not advocated scrapping these commitments—then I say that it is only logical, sound and responsible that the United States continue to have the unrestricted use of its greatest base in the West Pacific—namely, Okinawa.

While I agree that eventually the Ryukyu Islands will be returned to Japan, it would be foolhardy, in my judgment, to commit the United States to defend most of the Far East and then to give away this country's unrestricted right to use its military bases on Okinawa.

If by the act of granting Japan administrative control over Okinawa, the United States could insure a multi-national defense structure in the Far East, with increased participation by Japan—if this action would relieve our country of a measure of its heavy international responsibilities—then, I would support a reversion of Okinawa to Japanese control.

But this is not the case.

Quite the contrary. Surrender of control over Okinawa would only make more difficult our role in the Pacific.

The future role of the United States in the Far Pacific is of tremendous importance.

It is of great importance to the American people—and it is of great importance to the people of Asia.

Many feel, as I do, that our worldwide commitments must be reduced. This, too, appears to be the view of President Nixon. But so long as the United States maintains its significant role in the Far East, the continued unrestricted use of our bases on Okinawa is vital and fundamental.

Last November, the Prime Minister of Japan came to Washington to discuss the future of Okinawa, among other issues. Shortly before his arrival, I added to a pending bill an amendment which declared it to be the sense of the Senate that the President seek the advice and consent of the Senate before entering into an agreement that would change the status of Okinawa.

It was my feeling that since the Senate in 1952 ratified the Treaty of Peace, the Senate

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ing changes would be made in sections 1802(b), 1811(h), and 1818(c) to delete secondary references to the entitlement expiration dates thus eliminated. The terminal date for the direct loan program (January 31, 1975) now prescribed in section 1818(c) has been retained by incorporation in section 1811(h) which deals specifically with the direct loan program.

If this proposal is enacted, it is estimated that in the first year there would be 35,000 loans closed which otherwise would not be made under the VA loan program. In five years, the cumulative additional loans would approximate 179,000. It is estimated that the additional cost for the first year, i.e., administrative expenses and operational losses and expenses, would be about \$5.3 million and that the aggregate cost for the five year period would approximate \$26.5 million.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this proposed legislation and that its enactment would be in accord with the program of the President.

Sincerely,

DONALD E. JOHNSON,
Administrator.

S.

A bill to remove time limitations on the duration of eligibility of veterans for guaranteed and direct loans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1802(b) of title 38, United States Code, is amended by striking out the last sentence thereof.

Sec. 2. Section 1803 of title 38, United States Code, is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Any loan to a World War II or Korean conflict veteran, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title."

Sec. 3. Subsection (h) of section 1811 of title 38, United States Code, is amended to read as follows:

"(h) No loan may be made under this section to any veteran after January 31, 1975, except pursuant to a commitment issued by the Administrator before such date."

Sec. 4. Section 1818 of title 38, United States Code, is amended (1) by striking out subsection (c); (2) by redesignating subsections (d) and (e) as (c) and (d), respectively; and (3) by amending subsection (e), as redesignated subsection (d) in (2) above, to read as follows:

"(d) Notwithstanding any of the provisions of this section, a veteran deriving entitlement under this section shall not be required to pay the fee prescribed by subsection (c) and such entitlement shall include eligibility for any of the purposes specified in sections 1813 and 1815, and business loans under section 1814 of this title, if (1) he derived entitlement to the benefits of this chapter based on service during World War II or the Korean conflict, and (2) he has not used any of his entitlement derived from such service."

AMENDMENTS OF THE MILITARY SALES ACT—AMENDMENT NO. 667

Mr. BYRD of West Virginia. Mr. President, on last Thursday, the majority leader asked unanimous consent that,

immediately following the vote on the Dole amendment on tomorrow; I be recognized to call up an amendment.

That amendment—which I shall probably call up on tomorrow, under the previous order—will be No. 667.

MANPOWER TRAINING ACT OF 1969—ADDITIONAL COSPONSORS OF AMENDMENTS

NOS. 635, 636, AND 637

Mr. JAVITS. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Oklahoma (Mr. BELLMON), the Senator from Maine (Mr. MUSKIE), and the Senator from Pennsylvania (Mr. SCOTT) be added as cosponsors of amendments Nos. 635, 636, and 637 to S. 2838, the Manpower Training Act of 1969.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

AMENDMENT NO. 656

Mr. CASE. Mr. President, I ask unanimous consent that at the next printing that names of the Senator from Missouri (Mr. EAGLETON), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from New Jersey (Mr. WILLIAMS) be added as cosponsors to my amendment, No. 656, to add \$28,050,000 to H.R. 16916, making appropriations for the Office of Education for construction of facilities at 4-year institutions of higher education.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

NOTICE OF HEARING ON S. 3828, H.R. 17711, H.R. 15381, S. 3903, S. 3904, S. 3905, AND S. 3906

Mr. EAGLETON. Mr. President, as chairman of the Fiscal Affairs Subcommittee of the Senate Committee on the District of Columbia, I wish to give notice of a public hearing to be held at 12 on June 8, 1970, in room 6226, New Senate Office Building. At the hearing the subcommittee will hear testimony on the following legislation:

S. 3828 and H.R. 17711, bills to amend the District of Columbia Cooperative Association Act;

H.R. 15381, a bill to amend the District of Columbia Income and Franchise Tax Act of 1947 with respect to the taxation of regulated investment companies;

And on four bills I am introducing today at the request of the District of Columbia government:

S. 3903, a bill to provide additional revenue for the District of Columbia, and for other purposes;

S. 3904, a bill to authorize the District of Columbia to issue obligations to finance District capital programs, to provide Federal funds for District of Columbia institutions of higher education, and for other purposes;

S. 3905, a bill to authorize the District of Columbia Council to fix the rates charged by the District of Columbia for water and water services and for sanitary sewer services; and

S. 3906, a bill to authorize the govern-

ment of the District of Columbia to fix certain fees.

Individuals and representatives of organizations who wish to testify at the hearing should notify Mr. Ted Maeder at 225-4161, prior to June 3, 1970.

Written statements, in lieu of personal appearance, are welcomed and may be submitted to the assistant chief clerk, room 6218, New Senate Office Building, Washington, D.C., 20510, for inclusion in the hearing record.

ADDITIONAL STATEMENTS OF SENATORS

PRIVATE INDUSTRIES ALERT TO POLLUTION DANGERS

Mr. COTTON. Mr. President, at long last our Nation has awakened to our environmental problem. There is a widespread feeling that industry which has been a substantial factor in causing pollution is inclined to be indifferent to its dangers and not prepared to make the necessary sacrifices to remedy conditions. This may be true in many cases, but there are outstanding exceptions. Some private industries were alert to the dangers of pollution long before the Government and the public became aware of them and were pioneers in striving to avert conditions that are so alarming to us today.

One such instance is the well-known pharmaceutical firm of Johnson & Johnson, which has its headquarters and original plant at New Brunswick, N.J. Recently my attention was called to a statement entitled "The Earth Is What We Make It," issued by Mr. Philip B. Hoffmann, chairman of the board, which traces the long struggle ever since 1886 by this corporation under the original leadership of General Johnson against pollution and filth in all its forms.

I found this message encouraging and inspiring. I ask unanimous consent that it be printed in the Record.

There being no objection, the message was ordered to be printed in the Record, as follows:

THE EARTH IS WHAT WE MAKE IT

Some observations on our environment are particularly in order on this April 23, 1970. These observations far exceed the realm of interested concern, however.

Since Johnson & Johnson was founded on the banks of the Raritan River 84 years ago, we have sterilized so many products essential to the protection of health and life that our desire for clean, wholesome surroundings is a long-standing preoccupation.

General Johnson stood strong for a clean and wholesome environment in every sense of the word. He would never settle for mediocrity—neither will I.

We are all aware of Johnson & Johnson's traditional and unexcelled standards of industrial environmental control. But let's take a close look at our record of participation in protecting three of the most vital elements of this earth of ours—our water, our air, and our land...

WATER QUALITY AND SUPPLY

Johnson & Johnson backed the campaign for the trunk sewer system with leadership, money and the film "River At Your Door." In 1958, after years of endeavor, we saw the system, which serves parts of Union and Somerset Counties and most of Middlesex, built and placed in operation in the lower

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condemned by the general opinion of the civilized world;

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear today's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, the seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

SECOND SUPPLEMENTAL APPROPRIATIONS BILL, 1970—AMENDMENT

AMENDMENT NO. 663

Mr. JAVITS (for himself, Mr. BAKER, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. GOODELL, Mr. KENNEDY, Mr. MONDALE, Mr. MCGOVERN, Mr. NELSON, Mr. PACKWOOD, Mr. PELL, Mr. WILLIAMS of New Jersey, Mr. SCOTT, Mr. STEVENS, and Mr. TYDINGS) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 17399) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes, which was referred to the Committee on Appropriations and ordered to be printed.

(The remarks of Mr. JAVITS when he submitted the amendment appear later in the RECORD under the appropriate heading.)

VA HOME LOANS—AMENDMENTS

AMENDMENT NO. 672

Mr. CRANSTON. Mr. President, on April 7, 1970, I introduced for myself and Senator SCHWEIKER, the ranking minority member of the Veterans Affairs Subcommittee of which I am chairman—by request—S. 3683, a bill to amend title 38 of the United States Code, in order to authorize the Administrator to make advance educational assistance payments to

certain veterans; to make improvements in chapter 37 of such title; and for other purposes.

Today, I am submitting, for Senator SCHWEIKER and myself—by request—an amendment to that bill in order to remove time limitations on the duration of eligibility of veterans for guaranteed and direct loans. On April 16, 1970, the Veterans' Administration requested that a bill to this effect be introduced, and we are adding the requested provisions to S. 3683 which already contains proposed amendments to chapter 37 of title 38, regarding home, farm, and business loans, by arrangement with the Veterans' Administration in order to include all Administration proposals within one bill—S. 3683.

There is presently pending before the Veterans' Affairs Subcommittee a bill, S. 3656, which I introduced on March 31 containing in sections 3, 5, and 6 provisions accomplishing the same result as would be achieved by the administration amendment we are introducing.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the full text of the amendment followed by the full text of the April 16, 1970, Administration transmittal letter and its enclosure.

The PRESIDING OFFICER (Mr. BELLMON). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment and other material will be printed in the RECORD.

The amendment (No. 672) was referred to the Committee on Labor and Public Welfare, as follows:

AMENDMENT NO. 672

On page 4, between lines 4 and 5, insert the following:

"SEC. 4. (a) Section 1802(b) of title 38, United States Code, is amended by striking out the last sentence thereof.

"(b) Section 1803 of such title is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(1) Any loan to a World War II or Korean conflict veteran, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title."

"(c) Subsection (b) of section 1811 of such title is amended to read as follows:

"(1) No loan may be made under this section to any veteran after January 31, 1975, except pursuant to a commitment issued by the Administrator before such date."

"(d) Section 1818 of such title is amended (1) by striking out subsection (c); (2) by redesignating subsections (d) and (e) as (c) and (d), respectively; and (3) by amending subsection (e), as redesignated subsection (d) in (2) above, to read as follows:

"(d) Notwithstanding any of the provisions of this section, a veteran deriving entitlement under this section shall not be required to pay the fee prescribed by subsection (c) and such entitlement shall include eligibility for any of the purposes specified in sections 1813 and 1815, and business loans under section 1814 of this title, if (1) he derived entitlement to the benefits of this chapter based on service during World War II or the Korean conflict, and (2) he

has not used any of his entitlement derived from such service."

On page 4, line 5, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 8, strike out lines 16 through 19, and insert in lieu thereof the following:

"Sec. 6. Sections 2 and 3 of this Act shall become effective on the first day of the second month following the date of enactment of this Act, and section 5 shall become effective on the first day of the third month following the date of enactment of this Act."

The material presented by Mr. CRANSTON is as follows:

VETERANS' ADMINISTRATION.

Washington, D.C., April 16, 1970.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill "To remove time limitations on the duration of eligibility of veterans for guaranteed and direct loans", with the request that it be introduced in order that it may be considered for enactment.

Prior to July 6, 1961, World War II veterans, as well as Korean veterans, were limited in their use of VA loan benefits to a period terminated by a fixed date. This terminal date had been extended several times so that as to World War II veterans it was then fixed at July 25, 1962, and as to Korean conflict veterans at January 31, 1965.

Public Law 87-84, approved July 6, 1961, established a phase-out formula, gearing the entitlement period to the length of the veteran's war service and the date of his discharge, with emphasis on those who served longest and were most recently discharged. Under the formula, each veteran was given entitlement of ten years from date of separation from his last period of duty which included service in the war period, plus an additional period of one year for each three months of active duty performed during the war or conflict. Under current law (38 U.S.C. 1803), the eligibility of World War II and Korean conflict veterans cannot extend beyond July 25, 1970 and January 31, 1975, respectively.

The foregoing entitlement formula applies also to veterans of the post-Korean period having loan entitlement under section 1818 of title 38, except that the final date within which the phase-out formula operates for that group is twenty years from the date of the veteran's separation from his last period of active duty.

Terminal dates for the eligibility of World War II veterans have been extended several times. Extensions have been made at or just prior to the statutory cut-off dates which has created a strong climate of uncertainty for veterans and other program participants. Removal of the phase-out criteria and the group cut-off dates would eliminate the element of urgency by veterans in using their eligibility, which becomes critical in periods of credit stringency.

Elimination of the delimiting dates on eligibility for the GI loan program would be in line with the eligibility criteria for the FHA veterans' loan program. Such a change would also simplify the administration of the VA loan programs. Further, veterans could adjust the timing of their home purchases and mortgage credit needs to coincide with favorable private market conditions, when sellers and lenders are willing to participate in the loan guaranty program. No veteran would be denied use of his entitlement because it had expired at a time when guaranteed loans were unavailable.

Our legislative proposal would amend 38 U.S.C. 1803(a) to eliminate the basic phase-out criteria and cut-off dates for World War II and Korean veterans and would make similar changes in 38 U.S.C. 1818(c) for veterans who serve after January 31, 1955. Correspond-

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sults. For example, the effective date of an award of disability compensation filed to begin from the date of discharge would be retroactive to that date as long as received within 1 year of discharge. The same retroactive treatment is accorded to a person disabled by VA medical treatment or while pursuing vocational rehabilitation under chapter 31; it is the date of the disablement or injury, not of the application, that governs in those instances. And the same is generally true with respect to death compensation and dependency and indemnity compensation effective on the first of the month in which death occurs if application therefor is received within 1 year of death.

Finally, the effective date rule in the bill I am introducing merely establishes the counterpart of the effective date already in section 3012(b) (2) of title 38, for a reduction of benefits by virtue of marriage, divorce, or death of a dependent. Such a reduction takes effect upon the actual disestablishment of the dependency status, not when the VA receives notice of it. Further examples of retroactive benefits and a strong brief for the approach taken in this bill are set forth in a December 15, 1969, letter to me from VA Adjudicator Robert Calvin, writing as a concerned citizen. Mr. President, I ask unanimous consent that the full text of this very public spirited letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 15, 1969.

DEAR SIR: I would like to bring to your attention a gross inequity which exists in our law.

I am an adjudicator for the Veterans Administration. As I administer the VA laws, almost daily I see an injustice occur. 38 U.S.C., paragraph 3010a provides that benefits for a new wife or child can only be paid from the date we receive a claim for that wife or child instead of from the date of marriage or of birth.

Would you consider sponsoring and supporting legislation to change this law so that benefits would be payable from the date of marriage or of birth if a claim is received within one year of the date of marriage or of birth?

Most of our veterans benefits are so payable. Some examples from C.F.R. 3.400-3.403 are:

1. Death benefits: benefits payable from first of month of death if a claim is received within one year of the date of death.

2. Posthumous child: benefits payable from date of birth if claim filed within one year of date of birth.

3. Increased pension: payable if claim is received within the same or the succeeding year.

4. Disability compensation: payable from day following separation from active duty if claim is received within one year after separation from service.

5. Claims for apportionment: where payments to vet have been interrupted, apportionment will be effective the day following the date of last payment if a claim is received within one year after that date.

6. Disability or death due to hospitalization: benefits payable from the date the injury was suffered or from the first of the month of death if claim is received within one year after that date.

7. Annulled marriage: death benefits are resumable from the date the annulment de-

cree becomes final if a claim is filed within one year after that date.

8. Child's helplessness: in continuation of payments, from the 18th birthday if claim is received prior to or within one year after the 18th birthday.

Although this proposed change is a simple one, it is vital. I have seen hundreds of sad cases where veterans missed months of benefits for dependents because they did not realize they had to file a claim the day the event occurred in order to get benefits for that dependent from the earliest possible date.

When a guy is getting married or having a child, can you expect him to remember to send us a claim that day or even within the week thereafter? Yet the burden of financial support falls on the veteran from the date the event occurred.

It seems reasonable in the light of the other similar VA laws that this law should be as considerate, so that benefits for a new wife or child would be payable from the day the dependency began, if a claim is filed within a year of the marriage or birth.

Please seriously consider this proposal to sponsor and support such a measure. I have no selfish ends in requesting this. Because of a physical disability I could not serve in the armed forces and so I am not a veteran. I only make this request because I am dedicated to helping veterans. The inequitable law which now exists rubs my conscience every day as I see it deprive veterans of benefits which they need due to dependents and which they deserve in the light of other similar Veterans Administration laws.

In sum, please help to change the law so that benefits for wives and children would be payable not from the date we receive the claim, but from the date of marriage or birth, if a claim is filed within one year of the marriage or birth.

Sincerely, A concerned citizen,

ROBERT COLVIN.

Mr. CRANSTON. Mr. President, I wish to point out that the bill I am introducing would change the dependency status effective date for GI bill purposes only and not for disability compensation purposes. Although I fully recognize the desirability of uniformity in these two areas, the Subcommittee on Veterans' Affairs, of which I am chairman, has no jurisdiction over the compensation program. I would urge, however, that the Veterans' Legislation Subcommittee of the Finance Committee and the House Veterans Affairs' Committee, give serious consideration to an amendment to section 3010 to change the dependency status effective date across the board, in which event my bill would not be needed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. BELLMON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3907) to amend section 3013 of title 38, United States Code, in order to provide that the effective date of any increase in a subsistence or educational assistance allowance award under chapter 31 or 34 of such title, because of a change in dependency status, shall be the date of such change without the necessity for an application if proof is timely filed, introduced by Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Labor and

Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3013 of title 38, United States Code, is amended by deleting the period at the end thereof and inserting the following: "; except that the effective date of an increase in the award of subsistence allowance under chapter 31 of this title, or of educational assistance allowance or training assistance allowance under chapter 34 of this title, by reason of marriage or the birth or adoption of a child, shall be the date of such event if proof thereof is received within one year from such marriage, birth or adoption.

ADDITIONAL COSPONSORS OF BILLS

S. 366

Mr. PELL. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of S. 366, to extend the well-established concept of the free public school system to provide the broadest educational opportunities possible to all students as a matter of right by authorizing the U.S. Commissioner of Education to award scholarships to undergraduate students to enable them to complete 2 academic years of higher education.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

S. 1969

Mr. PELL. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of S. 1969, to amend the Higher Education Act of 1965 to provide for basic educational opportunity grants and for cost of instruction allowances, and for other purposes.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

S. 1993

Mr. CASE. Mr. President, I ask unanimous consent that, at the next printing, the name of the junior Senator from California (Mr. CRANSTON) be added as a sponsor of S. 1993, a bill to require public disclosure of financial interests by top officials in all three branches of government.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

Mr. CASE. The addition of Senator CRANSTON brings to 21 the number of Senators who sponsor this bill. All of us had hoped that by this time committee hearings could have been held on the bill. At one point the chairman of the Privileges and Elections Subcommittee did schedule hearings but they were subsequently canceled because of lack of availability of witnesses.

Since then the Senator from Michigan (Mr. HART) and I have been in touch with the other sponsors and more than half, including the majority leader, have indicated their interest in testifying for the bill.

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S. 3354

Mr. KENNEDY. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that, at the next printing, the names of the Senator from Oklahoma (Mr. HARRIS), the Senator from Montana (Mr. METCALF), and the Senator from Texas (Mr. YARBOROUGH) be added as cosponsors of S. 3354, to amend the Water Resources Planning Act (79 Stat. 244) to establish a National Land Use Policy.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

S. 3760

Mr. BAKER. Mr. President, I ask unanimous consent that at the next printing the names of the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. GOODELL), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Kansas (Mr. PEARSON), the Senator from Nevada (Mr. BIBLE), the Senator from New Hampshire (Mr. COTTON), and the Senator from Virginia (Mr. SPONG) be added as co-sponsors of S. 3760, to establish a commission to consider a merger of the transportation regulatory agencies.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

S. 3835

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Iowa (Mr. HUGHES), I ask unanimous consent that, at the next printing, the names of the Senators from Maryland (Mr. TYDINGS and Mr. MATHIAS), and the Senator from Washington (Mr. JACKSON) be added as cosponsors of S. 3835, to provide a comprehensive Federal program for prevention and treatment of alcohol abuse and alcoholism.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

SENATE RESOLUTION 415—SUBMISSION OF A RESOLUTION URGING THE PRESIDENT TO CALL UPON THE SOVIET UNION TO REMOVE ALL RUSSIAN PERSONNEL FROM THE UNITED ARAB REPUBLIC

Mr. SCOTT (for himself and Mr. MONDALE) submitted a resolution (S. Res. 415) urging the President to call upon the Soviet Union to remove all Russian personnel from the United Arab Republic, which was referred to the Committee on Foreign Relations.

(The remarks of Mr. Scott when he submitted the resolution appear earlier in the RECORD under the appropriate heading.)

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENTS

AMENDMENTS NOS. 667 AND 668

Mr. BYRD of West Virginia submitted two amendments intended to be proposed by him to the bill (H.R. 15628) to amend the Foreign Military Sales Act, which

were ordered to lie on the table and to be printed.

AMENDMENT NO. 670

Mr. BAYH submitted an amendment, intended to be proposed by him, to House bill 15628, supra, which was ordered to lie on the table and to be printed.

(The remarks of Mr. BAYH when he submitted the amendment appear later in the RECORD under the appropriate heading.)

AMENDMENT NO. 671

Mr. KENNEDY. Mr. President, on behalf of the Senator from Alaska (Mr. GRAVEL) I ask unanimous consent that an amendment submitted by him and other Senators to H.R. 15628, be printed, together with some remarks prepared by him, in the RECORD at this point.

The PRESIDING OFFICER (Mr. BELLMON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and other material will be printed in the RECORD.

The amendment (No. 671) is as follows:

AMENDMENT No. 671

At the end of the bill, add the following new section:

"Sec. 14. No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the detoxification or destruction of chemical munitions only outside the United States."

The material, presented by Mr. KENNEDY, is as follows:

STATEMENT INTRODUCING GRAVEL AMENDMENT
RE: NERVE GAS LOCATION ISSUE

Mr. GRAVEL. Mr. President, I am sending to the desk an amendment to the bill pending before the Senate (H.R. 15628) and ask that it be read.

Mr. President, I have offered this amendment to the Military Sales Act (H.R. 15628) because I oppose any shipment of nerve gas from the storage depot in Okinawa to Alaska, Hawaii, or the continental United States.

My amendment differs significantly from amendment No. 649 to the act proposed by the distinguished senior Senator from Washington on May 21 of this year and on which I am a cosponsor. That amendment would prohibit the use of funds appropriated under the Military Sales Act for the "transport of chemical munitions from Okinawa to the United States."

My amendment does that, but goes an important step further by requiring the detoxification or other destruction of the chemical munitions now stored in Okinawa at a location outside the United States. In this way we would be rid of this particular stockpile of nerve gases once and for all. They cannot be of much priority in our weapons arsenal if the military itself has proposed to store them in Oregon or alternatively at Kodiak, Alaska. It is difficult to imagine just how this particular stockpile would thereby add to the defense posture of the Nation when it is located far from any point of possible usage.

Furthermore the one-way transport costs of moving the nerve gas has been estimated at \$6 to \$11 million. Add to this the ongoing storage costs in perpetuity and it is clear that the most efficient and least costly course to follow is to detoxify and dispose of these particular chemical materials now. Scientists tell us that this can easily be accomplished

with no harmful effects on the air and water environments.

This ill considered decision on the part of the administration raises a still larger question; namely, Should the United States continue to maintain chemical weapons of this type in its arsenal?

On November 25, 1969 President Nixon issued a statement on chemical and biological defense policies and programs. He announced that the United States was renouncing the use of lethal biological agents, weapons, and all other methods of biological warfare.

He also called for the disposal of our existing stocks of bacteriological weapons and asked the Department of Defense to make the necessary recommendations for their disposal.

Six months have elapsed since the President's statement. However, no public statement has been issued as to the progress of the disposal of these bacteriological weapons stockpiles.

President Nixon further announced that the United States would not use lethal chemical weapons or incapacitating chemicals unless they were used against us first.

The President also advised that he would submit to the Senate, for its advice and consent to ratification, the Geneva protocol of 1925 which prohibits the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare.

Mr. President, I ask unanimous consent that the Geneva protocol of 1925 be printed in the RECORD at this point.

Surely six months is long enough to wait for the President to act. Therefore, I call upon the President to immediately submit the Geneva protocol of 1925 to the Senate for ratification and to extend his decision to dispose of our bacteriological weapons to include our chemical warfare agents.

I would further suggest that the military begin the detoxification and disposal of these chemical agents with the nerve gas inventories in Okinawa.

President Nixon stated in his November 25 statement, and I quote, "Mankind already carries in its own hands too many of the seeds of its own destruction."

President Nixon has the power to order the destruction of these lethal chemical weapons. He has not chosen to do so.

Yet it is generally recognized that chemical weapons are tactical in nature and cannot be used effectively and decisively on a strategic basis. It is questionable that we would ever risk the wrath of world public opinion by employing them merely for tactical considerations.

In other words, if we ever reached a crisis situation where chemical weapons might be considered, it is much more likely that the decision would be to use other types of weapons.

Although it is conceivable that some unusual strategic situation might call for the use of a mix of chemical and nuclear weapons, I believe our interests are better served and the cause of peace strengthened if we eliminate chemical weapons from our military stockpiles.

Therefore, I ask the Senate to support my amendment to destroy the deadly chemical warfare gases planned for movement to the United States from our Okinawa arsenal, and I urge the President, with our advice and consent, to implement the spirit of the Geneva protocol.

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE—SIGNED AT GENEVA, JUNE 17, 1925

The undersigned plenipotentiaries, in the name of their respective Governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly

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which had condoned that haphazard procedure. I wonder whom they were trying to protect when they criticized Mr. Mollenhoff.

Nevertheless, I want to express the hope that whoever holds this position under this administration or in subsequent administrations will insist that from this day on he will continue the rules which were laid down by Commissioner Thrower and Mr. Mollenhoff as they worked them out together, that any tax return which is examined will be examined only after a signed request, stating all the reasons for the request and making it a matter of record.

I again compliment Mr. Mollenhoff for the job he has done and extend to him my very best wishes as he returns to journalism. I again express the thought that our Government is losing a distinguished public servant.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield. Mr. CURTIS. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Delaware (Mr. WILLIAMS).

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent to have 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I wish to add a word of praise to Clark Mollenhoff, who has displayed honor, integrity, and great ability. I hope the time comes when he will again consent to serve in public office. As a reporter, he was a diligent and thorough investigator. He is fair and he is honest. He would be a credit as an employee in any office, and I hope the time comes when his situation will be such that he can again render service within Government. I know the service he will render as a journalist will be in the interest of America.

I commend the Senator from Delaware for his remarks of praise of Mr. Mollenhoff.

Mr. WILLIAMS of Delaware. I thank the Senator.

I want to add further that I remember the suggestion was made that there would be those in certain quarters who would be glad Mr. Mollenhoff was leaving this position because they feared him. I have known Clark Mollenhoff for a number of years. I will state that no man in America need have any fear of Mr. Mollenhoff unless—I emphasize, unless—he had heretofore done—or had contemplated doing—something that was unethical as far as Government is concerned. In that instance Clark Mollenhoff would be a most dangerous man to have in public office because he would expose such activities, regardless of who or what political party would be involved. Yes, Clark Mollenhoff would not be feared by those who are honest and trying to do a good job in Government, but he would be feared by those who had done or who planned to do wrong.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator wish the unfinished business to be laid before the Senate?

Mr. CHURCH. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

CONCLUSION OF ADDITIONAL MORNING BUSINESS

The PRESIDING OFFICER. Without objection, morning business is closed.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 15628) to amend the Foreign Military Sales Act.

The Senate resumed the consideration of the bill.

DOLE AMENDMENT ON PRISONERS IN CAMBODIA, NO. 662

Mr. CHURCH. Mr. President, the Dole amendment is a travesty. Its adoption would not help a single American prisoner of war.

On the contrary, the passage of this amendment could only have the very opposite effect. By authorizing the President to keep U.S. forces in Cambodia indefinitely, or send troops back whenever he chooses as long as U.S. prisoners are held there, the amendment would be more likely to add to, than help reduce, the list of captured American soldiers. It would also arouse false expectations by the families of prisoners, hopes which simply cannot be fulfilled merely by passing a bill.

The truth is that the longer our forces stay in Cambodia the more vulnerable they will be to capture—and to being killed—by the enemy. We should insure that our forces get out of Cambodia by the deadline laid down by the President. Passage of this amendment will only encourage those in the bureaucracy who would like to see the United States stay in Cambodia indefinitely in order to prop up the Lon Nol government.

If the Senator from Kansas proposes waging war in Cambodia until American prisoners are freed, I wonder if he would suggest that we also invade North Vietnam or Laos to free the prisoners there? The number of Americans held prisoner in Cambodia is minuscule compared with the number held in North Vietnam.

I believe the Senator from Kansas voted for the amendment last December—supported by the White House—which prohibited the sending of ground troops to Laos or Thailand. He did not propose then, if my memory serves me correctly, that the prohibition not become operative until all U.S. prisoners in Laos were released. The principle involved here is the same.

I wonder also if the Senator from Kansas wishes to delay the withdrawal from South Vietnam of the 150,000 troops, as announced by the President on April 20, until the prisoners in Cambodia are released? If he is concerned about keeping the pressure on the enemy to force the release of prisoners, it would be logical for him to seek to delay the departure of any U.S. troops from Southeast Asia. Would the Senator consider revising his amendment along those lines?

The Senate should not endorse the theory that we should wage war in Cambodia indefinitely in order to try to bring about the release of U.S. prisoners held by the enemy. The best way to get U.S. prisoners released is to reach a political settlement in Paris.

Earlier this year, the Senate passed unanimously House Joint Resolution 454, which expressed the concern of the Congress over the treatment of U.S. prisoners of war and called for their release. There is no division among us when it comes to how we all feel about American prisoners of war—whether in Cambodia, Laos, or North Vietnam. But prisoners will not be released under threat of widening the war. There should be no illusions about that.

I urge that the amendment offered by the Senator from Kansas be defeated.

AMENDMENT NO. 670

Mr. BAYH. Mr. President, listening to our distinguished colleague from Idaho, I am reminded, if indeed any of us need to be reminded, that for some time now the pending order of business before the Senate has been the Cooper-Church amendment to the Foreign Military Sales Act. The amendment, as revised by its sponsors and the Senate provides that "In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970"—a date set by the President himself—no funds may be spent after July 1 for the purpose of retaining U.S. forces in Cambodia; paying the compensation or supporting any American personnel furnishing military instruction to Cambodian forces or supporting Cambodian forces; contracting for military instruction in Cambodia or providing persons to support Cambodian forces; and conducting any air operations in support of Cambodian forces.

As the distinguished Senator from Kansas (Mr. DOLE) has said on a number of occasions during the past 2 weeks, the issues involved here are weighty ones. The Cooper-Church amendment raises important constitutional questions about the relationship between powers of Congress to declare war, to raise and support armies and to make rules for the regulation and governing of these forces

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however, that to do nothing under the circumstances would involve a greater risk to American lives.

I know that history will credit Mr. Nixon with courage and will show that he acted with honesty and in the full belief that what he was doing was necessary to save the lives of American troops now in Vietnam. Can any reasonable person ask anything more?

History will record some other things too. It will record the fact that some of President Nixon's critics were unfair, unjust, harsh, and cruel. It will record the fact that some of Mr. Nixon's critics never once raised their voices in condemnation or criticism of North Vietnam, the Vietcong, or Communists generally. They found no fault with them. It will also be recorded that some of Mr. Nixon's critics continued and continued in their tirades without having one word of praise for the United States of America or for any President of the United States.

The PRESIDING OFFICER: The time of the Senator has expired.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may proceed for 10 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, at this point I would like to read an editorial which was broadcast in the public interest by radio station KFOR of Lincoln, Nebr., on May 18, 1970:

EDITORIAL

Like Brothers we fight among ourselves. Not over the war . . . for we all want to end the war. But we fight over how the war should be ended. Like Brothers we fight, but let no outsider try to intervene for we'll turn on him and fight our enemy with unity. We all agree that the war in Indo-China should be brought to a complete halt as quickly as possible. We all believe there should be peace . . . not only in the Far East, but the Middle East and all the rest of the world. And we believe that all men should not only be born equal, but have equal opportunities. We express our differences in achieving these goals in many ways . . . some vocally, some demonstratively, and some violently. But all of our attention is centered on what the United States should do. We argue that the United States should get out of Cambodia and Vietnam. Yet we are there because of an aggressor . . . a Country that wants to capture and dominate all of Indo-China by whatever means necessary. Let us all unite as Brothers should, and instead of shouting about our differences so that our enemies can gloat and take comfort from them, let us call attention to the very reasons we are fighting among ourselves. Let us all raise our voices in unison and shout to the world what the real problem is. Then our enemies will note with different feeling than they have noted our headlines in the past. The world will point an accusing finger at them and tell them to withdraw their troops back to their own country. Let us unite as Brothers should and shout to all the world . . . Stop the War. North Vietnam get out of Cambodia. North Vietnam get out of Laos. North Vietnam get out of South Vietnam. Stop the War. Stop the Invasions. Let there be peace in all the World.

A KFOR Viewpoint written and recorded by John Hanlon.

Mr. President, if some historian has time to write in detail concerning the remarks of the critics of President Nixon, it will provide some interesting reading.

It will show that there were some who talked long and loud, preaching disunity and discord, and thereafter they grieved over the fact that the country was being torn apart.

Such remarks as "There is no end in sight" and the cry, "Disaster is overtaking us," have been made. Another pronouncement was, "This blood bath which is here now must be stopped." Mr. President, could it be that these modern Rip Van Winkles have been asleep for 8 solid years? Could it be that those who inflame with oratory honestly believe that they have a monopoly on the desire for peace?

Mr. President, substantially all Americans want America's involvement in the fighting in Vietnam to come to an end. The country is not divided on that. There is a difference of opinion on some details of how best to end America's participation in the war in Indochina. Now is the time for tolerance and unity. In times of trial for our nation, Republicans have faithfully stood by Presidents who were Democrats. In time of trial, Democrats have loyally supported Republican Presidents. The unreasonable and vicious attacks have been exceptions. The fact that they are exceptions does not render them harmless in the least. Mr. President, I wish to call the attention of the Senate and the country to the words and the acts of one who is such an exception. I refer to Democratic National Chairman Lawrence F. O'Brien. Mr. O'Brien's words are false, uncalled for, and dishonest. Mr. O'Brien has resorted to misrepresentation and mudslinging. Lawrence F. O'Brien has gone so far as to say:

I can only speculate in sorrow whether these young people (at Kent) would have been killed were it not for the Nixon-Agnew-Mitchell inflammatory rhetoric—the rhetoric that appeals to the fears and prejudices and darker impulses that lurk within mankind.

In making this utterance, Mr. O'Brien was speaking without any foundation of fact whatever. He submitted no facts. He proved himself to be devoid of honesty and decency and truthfulness. He contributed nothing to the solution of our problems. It is evident he did not intend to do so. It is not any wonder that the Omaha World-Herald said editorially on May 22, "By any test that O'Brien statement is swinish."

Mr. O'Brien may be the Democratic National Chairman. I know a lot of Democrats and Larry O'Brien does not speak for any of them. I do not believe that Lawrence O'Brien spoke for the Democrats in the U.S. Senate or the Democrats in the House of Representatives. They are patriots. They have a sense of fairness. They abhor untruths and slander.

Mr. O'Brien should take a lesson from a very great statesman from Massachusetts. I refer to the distinguished Speaker of the House of Representatives who is retiring this year after a long and distinguished career. Speaker JOHN MCCORMACK is deserving of all the praise that he receives. He is a patriot in every sense of the word. He always places his country first. At the reception that was held honoring Speaker McCormack but a few

days ago, the Speaker responded to the kind words of his colleagues in the House and the Senate and to the tribute paid to him by former President Johnson and by President Nixon with some very appropriate remarks. Among other things he said that he had served under many Presidents—some of them Democrat and some of them Republican; that he did not always agree with his President but that he always tried to so conduct himself that he didn't add to the burdens of the President.

Mr. President, Mr. O'Brien ought to apologize not only to President Nixon but to the country. This country is our country. It belongs to all the people. President Nixon is our President. He is President of all the people.

The PRESIDING OFFICER. What is the pleasure of the Senate?

RESIGNATION OF CLARK R. MOLLENHOFF AS DEPUTY COUNSEL TO THE PRESIDENT

Mr. WILLIAMS of Delaware. Mr. President, according to press reports over the weekend our friend, Clark Mollenhoff, has tendered his resignation as counsel to the President. As one who has had great respect both for Mr. Mollenhoff and the job he has been doing at the White House I state my regrets at news of his resignation. I think we are losing a great public servant. At the same time I hope whoever takes his place will exercise the same hard rules of fairness and the same discretion in the administration of this office as have been laid down by Mr. Mollenhoff. I have particular reference to his insistence that anyone holding this position with the White House who examines tax returns must file a written request stating why those tax returns are requested and why they are necessary. This rule applies whether it is in connection with prospective Government employment, or a charge of fraud involving an employee of the Government. By placing all requests for tax returns in writing, as has been done under Mr. Mollenhoff's administration of this office, it would be a matter of record, and if in later years it were shown that there had been abuse of this power both the public and the Congress could ascertain the extent and who was responsible for such abuse.

Prior to the initiation of this hard rule by Mr. Mollenhoff, loose practices under previous administrations made it possible for anyone in the White House who had curiosity to examine the tax returns of any John Doe or John Smith, and no records were kept. We were surprised to learn that no records had been kept by either the Kennedy or the Johnson administrations as to who had asked for tax returns or which returns had been requested. That was a rather haphazard method of operation and one which could be highly dangerous, and I am glad that Mr. Mollenhoff with the support of President Nixon corrected this loose procedure.

I emphasize that fact because I noticed that some of the persons who criticized Mr. Mollenhoff were a part of the previous Democratic administrations

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and the President's powers as Commander in Chief. I concur wholeheartedly with my colleague from Kansas on the need to debate these questions so that we in the Senate—and the American people—are fully aware of the meaning of the Cooper-Church amendment. But I do not believe that it should be debated to death.

Mr. President, a majority of Senators appear ready to support the Cooper-Church amendment. I support it. I believe the Senate of the United States should have an opportunity to express itself and to exercise its constitutional authority.

In the midst of the debate on the Cooper-Church amendment, the Senator from Kansas has introduced an amendment, which is certainly his right, that would nullify the effect of the Cooper-Church amendment whenever the President determines that any American is being held prisoner in Cambodia. Thus the issue of the treatment of American prisoners of war has been thrust into the midst of the debate over whether the expansion of the conflict into Cambodia is in the best interest of our country and a right and proper exercise of Presidential power.

I share the Senator from Kansas' concern about the inhumane treatment of U.S. prisoners of war. On a number of occasions in the past I have publicly expressed that concern. Last August, for example, I introduced a resolution expressing the sense of the Senate that our Government take appropriate action to insure that North Vietnam abides by the terms of the Geneva Convention of 1949.

I must admit, however, that the logic of interjecting the Dole amendment at this time in the debate escapes me. The Dole amendment does nothing to ease the plight of American prisoners of war. In fact, by sanctioning continued excursions into Cambodia we are likely to increase the number of Americans held prisoner by the North Vietnamese. Thus the amendment is self-defeating.

I fail to see how the amendment proposed by my colleague from Kansas (Mr. Dole) can in any way contribute to better treatment for American prisoners of war or hasten the release of those prisoners. To my knowledge, the President has not indicated any intention of returning U.S. forces to Cambodia after his self-imposed July 1 deadline in order to free American prisoners in Cambodia. And I think it would be short sighted to nullify the healthy effects of the Cooper-Church amendment by holding out this false hope.

Passage of the Cooper-Church amendment, is designed to prevent an expansion of the war and prevent an increase in the number of American prisoners. I believe passage of the Cooper-Church amendment would indeed contribute to an end to our involvement in Southeast Asia. If we can stop the war, we can secure the release of those Americans who have suffered so long as prisoners of war.

Mr. President, an end to the war does not appear to be in sight. As much as we dislike it, we must be realistic, and recognize that it is not going to end tomorrow. But regardless of the outcome of this debate over the Cooper-Church amendment, or indeed over the Dole amendment thereto, it seems to me that all of us need to speak out forcefully, saying that we are unalterably opposed to any attempt to make American prisoners of war a political issue in an effort to influence the policy of the United States toward the conflict in Southeast Asia. I am as opposed to this as I am opposed to Hanoi's policy of using American prisoners to bargain for political concessions, a practice specifically condemned by the Geneva Convention. It is important for the leaders of North Vietnam to know and for the entire world to know that the citizens of this country and the member of this body may differ over the direction of the war in Southeast Asia and the best means of bringing that war to a speedy and satisfactory conclusion, but in our concern for the welfare of those of our countrymen held prisoners of war whether in Laos, Cambodia, or North Vietnam, we are united. We stand firm in our insistence that North Vietnam abide by the Geneva Conventions in its treatment of prisoners of war.

Although the Hanoi government insists that American prisoners of war receive adequate and proper care they have not permitted impartial inspection which would substantiate and verify such claims. This is but one transgression on the part of North Vietnam which continues to violate the requirements of the Geneva convention. North Vietnam also refuses to release sick and wounded captives or to permit a regular flow of mail. It even refuses to provide a list of those being held captive. As a result, American families have lived in uncertainty and anguish for months and years, not knowing whether their loved ones are dead or alive. This callousness on the part of North Vietnam is the epitome of barbarism and absolutely inexcusable, it seems to me, under any rules which civilized men would normally abide by.

There has been evidence that those imprisoned in North Vietnam and in the jungles of Laos and South Vietnam by Pathet Lao and the Vietcong have frequently been subjected to torture. They have been deprived of sleep, refused food, hung from ceilings, tied with ropes until they developed infected sores. They have been burned with cigarettes and beaten. Some have been kept for months in solitary confinement and subjected to vicious techniques of psychological as well as physical abuse. Others have been held in bamboo cages and taunted like animals. Many suffer from malnutrition and are afflicted with intestinal parasites, particularly those held in jungle prison camps by the Vietcong and the Pathet Lao.

Mr. President, such inhumanity is unconscionable. I feel certain that I speak for all of us in the Senate when I urge our negotiators in Paris to do everything in their power to influence Hanoi to abide by the Geneva convention; when I urge all foreign governments, including the Soviet Union, to lend their assistance to the demands of the United States. I urge

that the American public voice its concern more loudly than ever in demanding that the North Vietnamese behave in a civilized manner toward prisoners. And I urge the North Vietnamese Government, the Vietcong, and the Pathet Lao to terminate their lack of concern for the welfare of prisoners and for the anguish of their families. I urge them to cooperate in an exchange of prisoners of war with South Vietnam and the United States and other parties to the conflict. Humanity demands nothing less.

The prisoner of war issue is not political, but humanitarian. It is an issue on which Americans are, I believe, of one mind, regardless of whether they support or oppose our current policy in Southeast Asia. Efforts to help our servicemen held by North Vietnam have been pursued vigorously by both Democratic and Republican administrations. There have been repeated efforts to obtain compliance with the provisions of the Geneva Convention. In particular, both Democratic and Republican administrations have urged such basic measures as the repatriation of sick and wounded prisoners as called for in article 108 of the Geneva Convention. There have been repeated attempts to persuade the North Vietnamese and the Vietcong to observe the convention's provisions for humane treatment of prisoners and to allow this to be verified by impartial international inspection. Attempts have been made again and again to get our adversaries to, at the very least, release the names of those held prisoner so wives, mothers, children and other loved ones of the more than 1,500 men listed as "missing" will not suffer the agony of not knowing whether they are dead or alive.

Mr. President, I have made no secret of the fact that I am opposed to the course being followed by the administration in Southeast Asia. But I have also made clear my concern for U.S. servicemen held prisoner in Southeast Asia and several other Members of this body have done so as well. On August 4, of last year, I expressed my deep concern about the welfare of American prisoners of war in a speech on the floor of the Senate. I subsequently introduced Senate Resolution 243, calling on the President to request the United Nations to take such steps as might be appropriate to bring about compliance by the Government of North Vietnam with its obligations under the Geneva Convention of August 12, 1949, relative to the treatment of prisoners of war.

Many other Members of this body have pursued a similar course of action, and I am certain that each Member of this body shares my concern for the welfare of U.S. prisoners of war regardless of whether or not they agree with our policy in Southeast Asia.

The question is, What can we do as individuals to ease the plight of these unfortunate men? Admittedly, our alternatives are limited. But today, Mr. President, I suggest that there are positive steps we might take. I am today proposing, therefore, one positive step—a small step—we should take immediately. I am submitting an amendment to the Foreign Military Sales Act, H.R.

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15628, which would extend the War Claims Act of 1948 to American fighting men and civilians held as prisoners of war by the North Vietnamese, and to those held by the North Koreans as a result of the capture of the U.S.S. *Pueblo*. This amendment provides cash benefits to these prisoners at the same rates and under the same conditions as applied with respect to members of the Armed Forces held prisoner during the Korean conflict. I hasten to point out that these cash benefits are small. Indeed, even if they were much larger, I am sure they could never provide adequate compensation for the hardships suffered by these men. But I think that this measure is still needed, if only as a signal to our soldiers—and to all people around the world—that we accord our fighting men the highest esteem and respect, and of our determination to do everything in our power to see that they are released and sent home to their loved ones.

This amendment was originally proposed by Representative ROGERS of Colorado, and was adopted in the House on May 28, 1969. It has been languishing here in the Senate for over a year. If we really mean what we say about our prisoners of war in Vietnam, here is a positive step we can take—and we should take now. I would like to see the Senate make an affirmative gesture to help these brave men and their families, and I hope this amendment will be successful.

The amendment's provisions are woefully inadequate and I feel certain Congress will want to move vigorously to provide more substantial benefits to our prisoners of war. But this amendment has been passed by the House and by passing it now in the Senate it can go into effect without further delay and serve as an admittedly inadequate symbol of our concern for the welfare of our prisoners of war until more meaningful legislation can be enacted.

Mr. President, I ask unanimous consent that the amendment be printed in its entirety in the RECORD, along with an excerpt of House Report No. 91-249, which accompanied H.R. 4204, the identical bill already enacted by the House.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and report will be printed in the RECORD.

The amendment (No. 670) is as follows:

AMENDMENT No. 670

At the end of the bill, add the following new sections:

Sec. 14. Section 6 of the War Claims Act of 1948 (50 App. U.S.C. 2005) is amended as follows:

(1) by redesignating subsection (1) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f)(1) As used in this subsection—

"(A) the term 'Vietnam conflict' relates to the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

"(B) the term 'prisoner of war' means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces

of the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served, such hostile force.

"(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

"(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

"(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or

"(B) for inhumane treatment of by the hostile force by which he was held, or its agents. The term 'inhumane treatment' as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of article 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 84, 85, 86, 87, 88, 89, 90, 97, or 98 of the Geneva Convention of August 12, 1949.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$1.50 with respect to any one day.

"(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the person specified, and in the order established, by subsection (d)(4) of this section.

"(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

"(A) the date of enactment of this subsection;

"(B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

"(C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

"(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

"(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses."

Sec. 15. Section 6(e) of the War Claims Act of 1948 (50 App. U.S.C. 2005(e)) is amended as follows:

(1) In paragraph (1), strike out "except any such member" and insert in lieu thereof "or any person (military or civilian) assigned to duty in the U.S.S. *Pueblo* who was captured by the military forces of North Korea on January 23, 1968, and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968, except any person".

(2) At the end of paragraph (5), add the following new subparagraph:

"(D) In the case of any person assigned to duty in the U.S.S. *Pueblo* referred to in paragraph (1) of this subsection, one year after the date of enactment of this subparagraph."

Sec. 16. Section 5 of the War Claims Act of 1948 (50 App. U.S.C. 2004) is amended—

(1) by striking out in subsection (e) "subsection (g)" and inserting in lieu thereof "subsections (g) and (1)"; and

(2) by adding at the end thereof the following new subsection:

"(1) As used in this subsection—

"(A) the term 'Vietnam conflict' relates to the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

"(B) the term 'civilian American citizen' means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia in order to avoid capture or internment by any such hostile force, except (1) a person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (2) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

"(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to February 27, 1961, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid capture or internment by any such hostile force.

"(3) The detention benefits allowed under paragraph (2) of this subsection shall be at the rate of \$60 for each calendar month.

"(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his death, only to the following persons:

"(A) the widow or husband if there is no child or children of the deceased;

"(B) the widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

"(C) the child or children of the de-

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ceased in equal shares if there is no widow or dependent husband.

"(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid to the person entitled thereto, except that if a person entitled to payment under this section is under any legal disability, payment shall be made in accordance with the provisions of subsection (e) of this section.

"(6) Each claim filed under this section must be filed not later than three years from whichever of the following dates last occurs:

"(A) the date of enactment of this subsection;

"(B) the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

"(C) the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations for each claim filed under this subsection at the earliest practicable date, but not later than one year after the date on which such claim was filed.

"(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses."

The excerpt of the report, presented by Mr. BAYH, is as follows:

EXCERPT FROM HOUSE REPORT NO. 91-249

PRINCIPAL PURPOSE OF THE BILL

The reported bill would authorize payments under the War Claims Act of 1948 to members of the Armed Forces captured and held prisoner by the forces of North Vietnam, and to persons captured by North Korea while assigned to duty on board the U.S.S. *Pueblo*, for the period of their captivity at the same rates and under the same conditions as applied with respect to the members of Armed Forces held prisoner during the Korean conflict. In general, benefits are paid at the rate of \$2.50 for each day of captivity. In addition, the bill provides for payments to civilian American citizens held by the forces of North Vietnam at the rate of \$60 per month, in the same manner as was provided for civilians interned by the forces of North Korea.

HEARINGS; AGENCY REPORTS; COST

Hearings were held on this legislation on March 5, 1969. Testimony in support of the bill was received from the Foreign Claims Settlement Commission and the American Legion. No testimony adverse to the bill was received.

In their reports on the bill, the Foreign Claims Settlement Commission recommended enactment of H.R. 4204 with amendments, and the report of the Department of Defense recommended similar amendments, but also suggested that consideration of the bill be deferred. The report of the Department of Justice defers to the views of the Commission.

Subsequently, the Bureau of the Budget submitted a report stating that, subject to the committee's consideration of the points raised in the reports of the Commission and the Department of Defense, the Bureau of the Budget would not object to enactment of the bill.

The committee has considered the recommendations of the Commission, and has amended the bill appropriately; and has also considered the recommendation of the De-

partment of Defense that enactment be deferred. The committee feels it is appropriate for this legislation to be enacted at this time.

The United States has received considerable information through escaped prisoners and through prisoners released by the North Vietnamese forces, concerning the treatment of persons held prisoner by the North Vietnamese. Although North Vietnam has subscribed to the Geneva Convention of 1949, the consistent showing by escaped and released former prisoners has been one of inhumane treatment and treatment of prisoners in flagrant violation of the Geneva Convention. Under the circumstances, the committee sees no justification for delay in payment of the token sums prescribed in this legislation to those prisoners who have been released. With respect to members of the crew of the *Pueblo*, it is also clear that the forces of North Korea followed a similar pattern of mistreatment of those members of the Armed Forces.

It is impossible to determine the exact cost of the legislation at this time; however, based upon experience with the similar program established for members of the Armed Forces held prisoner in Korea, it appears likely that the cost of the bill will not exceed \$500,000. The costs of the bill are discussed in more detail hereafter in this report.

BACKGROUND

At the conclusion of World War II, the Congress provided through the War Claims Act of 1948 for payment out of the proceeds of vested German and Japanese assets in the United States of a number of categories of war claims. A major category of claims provided for under this legislation was claims of members of the Armed Forces in the amount of \$1 per day for each day on which the member was furnished an inadequate quantity or quality of food during the period of his imprisonment. Subsequently amendments in 1952 provided for payment of an additional \$1.50 per day to members for each day with respect to which they established that they were required to engage in forced labor or received inhumane treatment, defined generally as treatment in violation of specified articles of the Geneva Convention of 1929 relating to treatment of prisoners of war. Payments under these two programs to 179,578 World War II prisoners of war totaled \$123,397,604.

In 1954 the Congress amended the War Claims Act of 1948 to provide for the establishment of a similar program providing compensation to members of the Armed Forces held as prisoners of war by the forces of North Korea. The amounts and conditions for payment were the same as had been provided earlier for persons held prisoner during World War II, except that payments were to be made out of appropriated funds, since there were virtually no assets of North Korea in the United States available for this purpose. In addition, the 1954 amendments provided that no payments would be made to any individual who "voluntarily, knowingly, and without duress, gave aid to, collaborated with, or in any manner served" the forces of North Korea during his imprisonment. Payments were made under this program to 9,460 prisoners, or their survivors, totaling \$8,886,473.

With respect to civilian internees, the World War II claims legislation provided for the continuation of the pay and allowances of contractors' employees during the period of their captivity, authorized medical care for these employees for physical disabilities incurred as a result of their captivity and provided for payment of detention benefits in addition at the rate of \$60 per month for adults and \$25 a month for children for the period of their captivity. 11,652 internees were paid a total of \$18,092,461 in detention benefits under this program.

Subsequent amendment to the Missing Persons Act and the War Hazards Act authorized continuation of pay, and provided other benefits, for employees of the United States, and for employees of contractors with the United States captured after World War II in zones of military hazard. Therefore, the 1954 amendments to the War Claims Act provided only for payment of detention benefits to civilians who were captured in Korea of whom seven received payments under the 1954 act totaling \$16,774.

PROVISIONS OF THE BILL

The reported bill would provide for payment to members of the Armed Forces held prisoner by the forces of North Vietnam at the rate of \$1 per day for each day on which the member received an inadequate quantity or quality of food during his captivity and \$1.50 per day for each day on which he was required to perform forced labor, or was subjected to inhumane treatment (defined generally as treatment in violation of the Geneva Convention of August 12, 1949, to which North Vietnam is a signatory). The bill also provides for payment to all civilian American citizens who are held captive by the North Vietnam forces at the rate of \$60 per month, which is in addition to any payments they may receive under the Missing Persons, Defense Base, or War Hazards Acts.

The committee recognizes that the amounts provided by the bill for members of the Armed Forces and for civilian American citizens held captive are inadequate compensation for the hardships they have suffered; however, since in general no monetary payment can actually be adequate compensation, the committee feels that the payments provide in the bill serve as a symbolic gesture on the part of the United States expressing recognition of the hardships suffered by the beneficiaries in keeping with the procedure established under the World War II and Korean conflict claims program.

In addition, the bill provides for payment, at the same rates and under the same conditions as applied under the Korean conflict claims program, to all persons captured while serving on board the U.S.S. *Pueblo*. The committee feels that the circumstances under which these individuals were captured and held are essentially the same as apply to members of the Armed Forces captured and held by the forces of North Vietnam, and by the forces of North Korea during the Korean conflict, so as to justify treatment of these persons in the same fashion as applies to persons captured while serving in other zones of hostilities.

PROCEDURES OF THE COMMISSION

The 1954 Korean conflict claims legislation dealt with the deeply troublesome problem of collaboration by some members of the Armed Forces with their captors during the periods of their captivity in Korea. As a result, the 1954 legislation provided that no payments would be made to members of the Armed Forces, or civilians, who "voluntarily, knowingly, and without duress, gave aid to, collaborated with, or in any manner served" the interests of North Korea during their captivity. The reported bill applies the same test with respect to members of the Armed Forces and civilians held prisoner by the forces of North Vietnam and to persons serving on board the U.S.S. *Pueblo*.

The test obviously excludes persons who voluntarily defect to the enemy, but does not exclude persons who surrender when faced with overwhelming odds. In addition, the legislation recognizes that through torture, whether physical or mental, and through deprivation of food, the will to resist of many, if not, most, men can be broken. Therefore, the legislation provides that, in order for benefits to be denied, the aid, collaboration, or service of the interests of the captors of the individual must have been

performed by the affected person voluntarily, knowingly, and without duress.

A procedural problem arose during the consideration of the Korean claims program which made the work of the Foreign Claims Settlement Commission particularly difficult. The Commission was required to grant a hearing to each person who requested such a hearing upon denial of benefits. The Commission was furnished a substantial amount of information by the Department of Defense bearing upon the question of collaboration of individual members of the Armed Forces while held prisoner. Although this information in the hands of the Department of Defense was well known to the forces of North Korea, and presumably the remainder of the Communist world and, if accurate, was also well known to the individual claimants, the information was generally classified as "Top Secret." The Commission was therefore placed in the dilemma of having to deny benefits to individuals on the basis of top-secret information which could not then be disclosed to the individual about whom the information related, except in general summary form which of necessity was so vague as to make it virtually impossible for the person charged with collaboration to rebut precise charges made against him.

During the hearings, this procedural problem was discussed with the Chairman of the Foreign Claims Settlement Commission. The committee expects that in the adjudication of individual cases arising under this legislation where benefits are proposed to be denied to an individual on the basis of information that he gave aid to, collaborated with, or served the interests of North Vietnam or North Korea, as the case may be, the Commission's procedures will provide that the individual will be furnished a precise statement of facts indicating such activity. If the information is classified, and therefore cannot be disclosed to the claimant or his counsel, the committee expects that the Commission will seek to obtain declassification of this information. Where the information is already known by the North Vietnamese or North Koreans, as the case may be, and is also presumably known by the claimant, it would seem rather useless to the committee to retain a security classification on such information. If the Commission is unable to obtain declassification of such information, the committee expects that this information will be disregarded by the Commission in its adjudication of the individual case, and the Commission's decision will be based entirely on the record made at the hearing.

SECTION-BY-SECTION ANALYSIS

The first section of the reported bill would amend section 6 of the War Claims Act of 1948 by adding a new subsection (f) defining the terms "Vietnam conflict" and "prisoner of war." Paragraphs (2) and (3) of the new subsection (f) would prescribe the amounts of payment to individuals, and the conditions for payment of such benefits.

The subsection also provides for payments out of appropriations and requires that claims must be filed within 3 years from whichever occurs last, the date of enactment of the bill, the date of return of the prisoner to the jurisdiction of the United States, or in the event of death claims, the date of death as determined by the Department of Defense.

Section 2 of the bill provides for payment of war claims benefits to persons serving on board the U.S.S. *Pueblo* who were captured and held by the forces of North Korea during 1968. This covers not only the assigned members of the crew, but marines and civilians assigned to duty on board that vessel. Claims under this section must be filed within 1 year after date of enactment of the bill.

Section 3 of the bill provides for payment to civilians captured in Southeast Asia during the Vietnam conflict, who are held prisoner by the forces of North Vietnam. Bene-

fits are to be paid at the rate of \$60 per month, and are to be paid out of appropriated funds. Claims must be filed within 3 years from the date of enactment, the date of return to the jurisdiction of the United States, or the date determined to be the date of death, whichever last occurs.

DISCUSSION CONCERNING THE COST OF THE PRISONER-OF-WAR CLAIMS PROGRAM AS PROPOSED UNDER THE BILL

The total number of civilian internees and prisoners of war which will be covered under H.R. 4204, of course, will not be known until the end of the Vietnam conflict. Accordingly, the exact cost of the program cannot be estimated at this time.

The average number of prisoner-of-war days per prisoner during the Korean conflict was 556 days (approximately 1 year 6 months). Assuming 333 out of the 1,275 American military personnel, who are classed as prisoners or missing were actually held as prisoners of war for the same number of days (556), the total number of prisoner-of-war days would be 185,148. Based on the foregoing figures, the estimated amount required to pay awards would be \$462,870.

With respect to the *Pueblo*, 81 members of the Armed Forces (of whom one died while in captivity) and two civilians were held prisoner for 11 months. The total cost of claims arising out of this incident should approximate \$68,675.

The Department of Defense listed a total of 8,818 members of the Armed Forces of the United States as having been originally reported as "missing in action" during the Korean conflict. Of this total, a determination of death was made in the case of approximately 7,000 individuals by the Department of Defense under the Missing Persons Act. Approximately 50 percent of the 7,000 presumptive death cases, or 3,500 military personnel, were determined to have died while in the hands of the opposing force. It was ascertained that virtually all deceased prisoners would have at least one survivor eligible to assert a claim authorized in the Korean conflict claims program.

In addition, the Department of Defense listed 4,953 members of the Armed Forces as having been captured or interned during the Korean conflict. Accordingly, the potential claim load was estimated at 8,500 eligible claimants. The average number of prisoner-of-war days per prisoner was estimated at 556, making a total of 4,723,000 compensable days at \$2.50 per day. The cost of the claims was estimated, therefore, at \$11,817,500.

Upon completion of the program, however, 9,460 awards had actually been made to prisoners or their survivors in the total amount of \$8,886,473, an amount approximately \$3 million less than had been previously estimated. The total amount included seven civilian internee claims amounting to \$16,774. The increased number of awards was due to the larger number of claims involving more than one survivor for deceased prisoners which had not been previously estimated.

Whether claims of prisoners of the Vietnam conflict will follow a similar pattern cannot be estimated at this time. Undoubtedly more detailed information concerning these prisoners will become available at a later date.

AGENCY REPORTS

FOREIGN CLAIMS SETTLEMENT, COMMISSION OF THE UNITED STATES, Washington, D.C., March 5, 1969.

HON. HARLEY O. STAGGERS,

Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your request of February 12, 1969, for a report by the Foreign Claims Settlement Commission on the bill H.R. 4204, 91st

Congress, to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

In effect, the bill would provide for the payment of compensation at the rate of \$2.50 per day for every day a member of the Armed Forces of the United States was held as a prisoner of war by a hostile force from August 5, 1964, to some future date to be designated by the President or by the Congress.

In order to carry out the purpose of the bill certain amendments are proposed to subsection (e) of section 6 of title I of the War Claims Act of 1948, as amended, Subsection (e) of section 6 was added to the act by Public Law 83 615, approved August 21, 1954. Subsection (e) of section 6 authorized the Foreign Claims Settlement Commission to receive and determine the amount of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war during the Korean conflict, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war as prescribed under the terms of the Geneva Convention of July 27, 1929. Compensation is payable at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

Subsection (e) also provided an additional \$1.50 per day for each day on which he was held as a prisoner of war based on the failure of the hostile force to meet the conditions and requirements prescribed under the Geneva Convention of 1929 relating to the labor and treatment of such prisoners.

In case of death or determination of death of the person entitled to compensation, such compensation would be payable to certain specific survivors, including the widow, children, and parents of the deceased prisoner of war in that order of priority.

A "prisoner of war" is defined under the present provisions of subsection (e), paragraph (1), as "any regularly appointed, enrolled, enlisted or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force."

Payment of claims under subsection (e) of section 6 of the War Claims Act was authorized to be made out of appropriated funds.

The bill, H.R. 4204, proposes to amend the definition of a "prisoner of war" under subsection (e) (1) by making a technical change in the dates of coverage under the completed Korean prisoner of war program and those prisoners to be covered during the Vietnam conflict. Technical amendments are also proposed under subsection (e) (5) of the act to update the claims filing and completion provisions for the Vietnam prisoner-of-war claimants. In this connection, the Commission is required to complete its determinations with respect to each claim filed no later than 1 year after the date on which such claim was filed.

The Commission, after a study of the material contained in the State Department's so-called white paper on Vietnam prisoners of war ("Vietnam Information Notes," Office of Media Service, Bureau of Public Affairs, Department of State, No. 9, August 1967), the research material prepared by the Foreign Affairs Division, Legislative Reference Service, Library of Congress, as published in the daily issue of the Congressional Record on August 9, 1967 (vol. 113, No. 125, pp. S 11181-11187) and subsequent material, is of the

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opinion that there has been a gross mistreatment of American servicemen who were captured and held as prisoners of war in Vietnam and that such servicemen be provided some measure of relief over and above their regular pay and allowances. Accordingly, the Commission would recommend that some measure of relief be provided to these individuals.

The Commission understands that there are estimated to be approximately 1,275 American servicemen who are either classed as prisoners of war or missing in North and South Vietnam. The total number of prisoners is not known because, generally, there has been no identification of such prisoners despite the provisions of the Geneva Conventions of 1929 and 1949 which require the detaining power to make such identity. It is known, however, that in addition to at least several eligible survivors, a few prisoners have been released or escaped their captors and they, therefore, would be in a position to file claims for benefits within a short time after the enactment of H.R. 4204.

The attention of the committee is also invited to the fact that a number of civilian American citizens have been stationed in Vietnam during the past 7 or 8 years. Although the Commission has no specific information concerning the approximate number of these civilians or their present status, it is known, however, that some of these civilians have been, or are being, held by hostile forces in Vietnam as well as in other areas in Southeast Asia.

Claims of civilian American citizens who were captured by the Japanese on U.S. territories and possessions and interned during World War II were provided for under section 5 (a) through (e) of title I of the War Claims Act of 1948, as amended. Section 5 (g) of the act also provided compensation to civilian American citizens who were captured in Korea on or after June 28, 1950, by a hostile force. Compensation for both the World War II and Korean conflict civilian internees was payable at the rate of \$60 for each calendar month during which a civilian American citizen was at least 18 years of age and at the rate of \$25 per month for each calendar month during which such citizen was under 18 years of age.

Precedents for these claims have long been established by the Congress. Accordingly, the Commission recommends that consideration be given to the inclusion of the claims of civilian American citizens under the bill.

The Commission also recommends to the committee that reference be made to the Geneva Convention of August 12, 1949, instead of the Geneva Convention of July 27, 1929. In this connection, the Commission understands that the Government in North Vietnam is a party to the Geneva Convention of August 12, 1949, having acceded to it on June 28, 1957. Consequently, the bases for payment would be violations of the convention of 1949 instead of the failure of a hostile force to meet the conditions and requirements prescribed in the 1929 convention as is presently provided under subsection (e) of section 6 of the act. The recommendation, therefore, would be to substitute language similar to that contained under subsections (d) (2) and (d) (3) of section 6 for subsection (e) of section 6 as well as the substitution of the 1949 convention for the 1929 convention. This would also require certain changes in the act to include the appropriate articles of the later convention.

The committee may also wish to consider the fact that the date of February 28, 1961, has been used in other legislation as the beginning date of the Vietnam conflict and marks the appropriate date when American military advisers began to accompany their Vietnamese counterparts on military operations. Accordingly, it is recommended that the date of "February 28, 1961" be sub-

stituted for the date of "August 5, 1964" as it appears on line 1, page 2 of the bill.

The committee's attention is also invited to the bill, H.R. 6295, which was introduced on February 5, 1969, by Representative Tunney. This bill proposed a payment of \$16 for each day a member of a uniformed service is in a "missing status." This would include members who were captured, beleaguered, or besieged by a hostile force, who were in such "missing status" before and after August 23, 1964. The bill which is presently pending before the Committee on Armed Services, would amend title 37 of the United States Code (Pay and Allowances of the Uniformed Services) to provide such compensation. Whether this bill would duplicate the purpose of H.R. 4204 the Commission cannot determine at this time.

While the Commission is in full agreement with the intent and purpose of H.R. 4204 and would recommend its enactment, it nevertheless favors a broader coverage of these claims as reflected in its recommendations outlined above.

Whether the committee may wish to consider the inclusion of these recommendations in the bill is, of course, a matter within the prerogative of the committee.

The committee is informed that time has not permitted securing advice from the Bureau of the Budget as to the relationship of the pending legislation or the report to the program of the President.

Sincerely yours,

LEONARD V.B. SUTTON,
Chairman.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., March 5, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on H.R. 4204, 91st Congress, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

The bill, if enacted, would grant any member of the Armed Forces of the United States who was held a prisoner of war for any period of time between August 5, 1964, and the official ending of the Vietnam conflict, the same benefits granted to authorized prisoners of war captured during World War II and the Korean conflict. Benefits under this bill would consist of \$1 per day of captivity for inadequate food and \$1.50 per day of captivity for forced labor or inhumane treatment contrary to the Geneva Convention. The prisoner must have been captured by a hostile force with which the United States was actually engaged in armed conflict.

The date of August 5, 1964, and the provision that the prisoner of war must have been captured "by a hostile force with which the Armed Forces of the United States were actually engaged in armed conflict" would exclude a number of men now prisoners of war and some of those who have returned from captivity who were captured prior to August 5, 1964. In the view of the Department of Defense, this would be unfair. It is understood that the Foreign Claims Settlement Commission is recommending the insertion of the date, February 28, 1961. The Department of Defense concurs in this recommendation.

The benefits of \$1 and \$1.50 per day (maximum total \$2.50 per day) under this bill would be the same as those authorized for World War II and the Korean conflict. These rates are relatively low by today's standards.

Payments such as these to prisoners of war of World War II and the Korean conflict were not authorized by law until after the cessation of hostilities. This bill, if enacted now,

would alter this precedent in that it would provide for payment before the hostilities in Vietnam are terminated. It is noted further that the bill does not cover civilian internees as has been the case in the past. It is believed that the procedure noted above; that is, enactment of such legislation after cessation of hostilities in Southeast Asia would be more appropriate. Accordingly the Department of Defense recommends that enactment of the proposed legislation be deferred.

The fiscal effects of this legislation cannot be calculated by the Department of Defense at this time.

The Bureau of the Budget advises that time has not permitted determination of the relationship of the proposal to the administration's program.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

EXECUTIVE OFFICE OF
THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 12, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your February 12, 1969, letter requesting a report on H.R. 4204, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

In reporting to your committee, the Foreign Claims Settlement Commission stated that while in full agreement with the bill's intent and purpose, it favors broadening its coverage to include American civilians captured in Vietnam, and recommends that the effective date of the bill's coverage be February 28, 1961, rather than August 5, 1964, as in the introduced bill. The Department of Defense, in its report to your committee, held the same view as FCSC on a desirable effective date for the bill's coverage, questioned the appropriateness of the \$2.50 per day benefits rate, and noted that the bill does not cover civilian internees as in the past. Defense further stated that such payments in the past have not been authorized by law until after the cessation of hostilities, that such a procedure would be more appropriate with respect to the Vietnam conflict than enactment at this time, and the Department therefore recommended that the bill's enactment be deferred.

Subject to the committee's consideration of the points raised in the Foreign Claims Settlement Commission and Department of Defense reports, the Bureau of the Budget would not object to the enactment of H.R. 4204.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for
Legislative Reference.

OFFICE OF THE DEPUTY ATTORNEY
GENERAL,
Washington, D.C., March 17, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 4204, a bill to amend section 6 of the War Claims Act of 1948 to include prisoners of war captured during the Vietnam conflict.

Section 2005 of the War Claims Act of 1948 authorizes the Foreign Claims Settlement Commission to receive and adjudicate the claims of prisoners of war for compensation at the rate of \$1 a day for the violation by enemy governments of their obligation to furnish such prisoners of war with the quan-

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tity or quality of food to which they are entitled under the terms of the Geneva Convention of July 27, 1929. By definition, the term "prisoner of war" is limited to members of the military and naval forces of the United States who were held as prisoners of war by enemy governments during World War II and the Korean war. The proposed bill would extend the benefits of section 2005 to members of the Armed Forces of the United States who have been held as prisoners of war at any time during the Vietnam conflict.

Whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Foreign Claims Settlement Commission.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
 Deputy Attorney General.

APPENDIX A

GENEVA CONVENTION OF AUGUST 12, 1949

For the information of the Members of the House, some of the relevant provisions of the Geneva Convention of August 12, 1949, referred to in this legislation are set forth below:

GENEVA CONVENTION OF AUGUST 12, 1949

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows

PART I

GENERAL PROVISIONS

ARTICLE 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

ARTICLE 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

ARTICLE 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

ARTICLE 4

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

PART II

GENERAL PROTECTION OF PRISONERS OF WAR

ARTICLE 12

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation

or shall request the return of the prisoners of war. Such request must be complied with.

ARTICLE 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

ARTICLE 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

ARTICLE 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

ARTICLE 16

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III

CAPTIVITY

SECTION I—BEGINNING OF CAPTIVITY

ARTICLE 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant

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ant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

ARTICLE 18

All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

ARTICLE 19

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

ARTICLE 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

SECTION II—INTERMENT OF PRISONERS OF WAR

Chapter I—General Observations

ARTICLE 21

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

ARTICLE 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

ARTICLE 23

No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the Air. The Powers concerned may, however, agree upon

any other system of marking. Only prisoner of war camps shall be marked as such.

ARTICLE 24

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

Chapter II—Quarters, Food and Clothing of Prisoners of War

ARTICLE 25

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

ARTICLE 26

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

ARTICLE 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Chapter III—Hygiene and Medical Attention

ARTICLE 28

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

ARTICLE 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards, shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

ARTICLE 31

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war.

ARTICLE 40

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

ARTICLE 41

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

ARTICLE 42

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII—Rank of Prisoners of War

ARTICLE 43

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one

another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

ARTICLE 44

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

ARTICLE 45

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII—Transfer of Prisoners of War After Their Arrival in Camp

ARTICLE 46

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

ARTICLE 47

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

ARTICLE 48

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

SECTION III—LABOUR OF PRISONERS OF WAR

ARTICLE 49

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

ARTICLE 50

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) agriculture;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

ARTICLE 51

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climate conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

ARTICLE 52

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

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The removal of mines or similar devices shall be considered as dangerous labour.

ARTICLE 53

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

ARTICLE 54

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

ARTICLE 55

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

ARTICLE 56

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

ARTICLE 57

The treatment of prisoners of war who work for private persons, even of the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the pris-

oners' representatives in the camps on which they depend.

CHAPTER III

PENAL AND DISCIPLINARY SANCTIONS

ARTICLE 84

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the right and means of defence provided for in Article 105.

ARTICLE 85

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

ARTICLE 86

No prisoner of war may be punished more than once for the same act or on the same charge.

ARTICLE 87

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

ARTICLE 88

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary Sanctions

ARTICLE 89

The disciplinary punishments applicable to prisoners of war are the following:

(1) A fine which shall not exceed 50 per

cent of the advances of pay and working pay which the prisoners of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.

(2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

(3) Fatigue duties not exceeding two hours daily.

(4) Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

ARTICLE 90

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

ARTICLE 97

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

ARTICLE 98

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representatives, who will hand over to the infirmary the perishable goods contained in such parcels.

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APPENDIX B

CHANGES IN EXISTING LAW MADE BY THE
BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTIONS 5 AND 6 OF THE WAR CLAIMS ACT
OF 1948 (50 APP. U.S.C. 2004 AND 2005)

INTERNEES

SEC. 5. (a) As used in subsections (b) and (f) of this section, the term "civilian American citizen" means any person who, being then a citizen of the United States, was captured by the Imperial Japanese Government on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippine Islands, or any Territory or possession of the United States attacked or invaded by such government, or while in transit to or from any such place, or who went into hiding at any such place in order to avoid capture or internment by such government; except (1) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or (2) a person who at the time of his capture or entrance into hiding was a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force.

(b) The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to December 6, 1941, during which he was held by the Imperial Japanese Government as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by such Imperial Japanese Government.

(c) The detention benefit allowed to any person under the provisions of subsection (b) shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(d) The detention benefits allowed under subsection (b) shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband and;

(4) Parents (in equal shares) if there is no husband, or child.

(e) Any claim allowed by the Commission under [subsection (g)] subsections (g) and (i) shall be certified to the Secretary of the Treasury for payment out of the war claims funds established by section 13 of this Act, and shall be payable by the Secretary of the Treasury to the person entitled thereto; except that where the person entitled to payment is under any legal disability, any part of the amount payable may, in the discretion of the Commission, be paid for the use of the claimant, to the natural or legal guardian, committee, conservator, or curator of the claimant, or, if there is no such guardian, committee, conservator, or curator, then the Commission may, in its discretion, make payment to any other person, including the spouse of such claimant, whom the Commission may determine is vested with the care of the claimant or his estate for the use and benefit of such claimant or estate; and if such person is a minor,

any part of the amount payable may, in the discretion of the Commission, be paid to such minor.

(1) (1) Except as otherwise provided in this subsection, the provisions of titles I and II of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended, are extended and shall apply with respect to the injury, disability, or death resulting from injury of a civilian American citizen occurring while he was held by or in hiding from the Imperial Japanese Government, to the same extent as if such American citizen were an employee within the purview of such Act of December 2, 1942, as amended.

(2) for the purpose of determining the benefits extended and made applicable by paragraph (1)—

(A) the average weekly wage of any such civilian American citizen, whether employed, self-employed, or not employed, shall be deemed to have been \$37.50;

(B) the provisions of such Act shall be applicable whether or not any such civilian American citizen was employed;

(C) notice of injury or death shall not be required; and limitation provisions with respect to the filing of claims for injury, disability, or death shall not begin to run until the date of enactment of this section; and

(D) the monthly compensation in cases involving partial disability shall be determined by the percentage the degree of partial disability bears to total disability and shall not be determined with respect to the extent of loss of wage earning capacity.

(3) The following provisions of such Act of December 2, 1942, as amended, shall not apply in the case of such civilian American citizens: The last sentence of section 101(a), section 101(b), section 101(d), section 104, and section 105.

(4) Rights or benefits which, under this subsection, are to be determined with reference to other provisions of law shall be determined with reference to such provisions of law as in force on January 3, 1948.

(5) The money benefit for disability or death shall be paid only to the person entitled thereto, or to his legal or natural guardian if he has one, and shall not upon death of the person so entitled survive for the benefit of his estate or any other person.

(6) The benefit of a minor or of an incompetent person who has no natural or legal guardian may, in the discretion of the Federal Security Administrator, be paid, in whole or in such part as he may determine for and on behalf of such minor or incompetent directly to the person or institution caring for, supporting, or having custody of such minor or incompetent.

(7) No person, except a widow or a child, shall be entitled to benefits for disability with respect to himself, and to death benefits on account of the death of another.

(8) If a civilian American citizen or his dependent receives or has received from the United States any payments on account of the same injury or death, or from his employer, in the form of wages, or payments in lieu of wages, or in any form of support or compensation (including workmen's compensation) in respect to the same objects, the benefits under this section shall be diminished by the amount of such payments in the following manner: (A) Benefits on account of injury or disability shall be reduced by the amount of payments to the injured person on account of the same injury or disability; and (B) benefits on account of death shall be reduced by the amount of payments to the dependents of the deceased civilian American citizen on account of the same death.

(9) This subsection shall take effect as of December 7, 1941, and the right of indi-

viduals to benefits shall be held to have begun to accrue as though this subsection had been in effect as of such date.

(10) No benefits provided by this subsection for injury, disability, or death shall accrue to any person who, without regard to this subsection, is entitled to or has received benefits for the same injury, disability, or death under such Act of December 2, 1942, as amended.

(11) No benefits provided by this subsection shall accrue to any person to whom benefits have been paid, or are payable, under the Federal Employees' Compensation Act, or any extension thereof, by reason of disability or death of an employee of the United States suffered after capture, detention, or other restraint by an enemy of the United States, when such disability or death is deemed, in the administration of the Federal Employees' Compensation Act, to have resulted from injury occurring while in the performance of duty, under subsection (b) of section 5 of the Act entitled "An Act to amend the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', as amended", approved July 28, 1945, as amended.

(g) (1) As used in this subsection, the term "civilian American citizens" means any person who, being then a citizen of the United States, was captured in Korea on or after June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, or who went into hiding in Korea in order to avoid capture or internment by any such hostile force; except (A) a person who at any time voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (B) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to June 25, 1950, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remaining in hiding to avoid being captured or interned by any such hostile force.

(3) The detention benefit allowed to any person under the provisions of paragraph (2) of this subsection shall be at the rate of 60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid by the Secretary of the Treasury to the person entitled thereto, except that where any person entitled to payment under this subsection is

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under any legal disability, payment may be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection;

(B) The date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) The date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(7) (A) There are hereby authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(h) In the case of any Guamanian killed or captured by the Imperial Japanese Government on or after December 7, 1944, at Wake Island, benefits shall be granted under subsections (a) through (f) of this section in the same manner and to the same extent as apply in the case of civilian American citizens so killed or captured. Claims for benefits under subsections (a) through (e) of this section must be filed within six months after the date of enactment of this subsection, and the time limitation applicable to any individual by subsection (f) shall not begin to run until the date of enactment of this subsection, with respect to any individual who is entitled to such benefits solely by reason of this subsection. The preceding subsection shall not be construed to affect the right of any individual to receive such benefits with respect to any period prior to the date of enactment of this subsection.

(i) (1) As used in this subsection—

(A) the term "Vietnam conflict" relates to the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term "civilian American citizen" means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia in order to avoid capture or internment by any such hostile force, except (i) a person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force, or (ii) a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to February 27, 1961, during which he was held by any such hostile force as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid capture or internment by any such hostile force.

(3) The detention benefits allowed under paragraph (2) of this subsection shall be at the rate of \$60 for each calendar month.

(4) The detention benefits allowed under paragraph (2) of this subsection shall be allowed to the civilian American citizen entitled thereto, or, in the event of his death, only to the following persons:

(A) the widow or husband if there is no child or children of the deceased;

(B) the widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(C) the child or children of the deceased in equal shares if there is no widow or dependent husband.

(5) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection, and shall be paid to the person entitled thereto, except that if a person entitled to payment under this section is under any legal disability, payment shall be made in accordance with the provisions of subsection (e) of this section.

(6) Each claim filed under this section must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection;

(B) the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(C) the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States.

The Commission shall complete its determinations for each claim filed under this subsection at the earliest practicable date, but not later than one year after the date on which such claim was filed.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

PRISONERS OF WAR

SEC. 6. (a) As used in subsection (b) of this section, the term "prisoner of war" means any regular appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of \$1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act.

(c) Claims pursuant to subsection (b) shall be paid to the person entitled thereto, and shall in case of death of the persons who are entitled to be payable only to or for the benefit of the following persons:

(1) Widow or husband if there is no child or children of the deceased;

(2) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(4) Parents (in equal shares) if there is no widow, husband, or child.

(d) (1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(2) The Commission is authorized to receive, adjudicate according to law, and to provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the violations by the enemy government by which he was held as a prisoner of war, or its agents, of such government's obligations under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the enemy government by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, violation by such enemy government, or its agents, of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57, of the Geneva Convention of July 27, 1929.

(3) Compensation shall be allowed to any prisoner of war under this subsection at the rate of \$1.50 per day for each day he was held as a prisoner of war on which he alleges and proves in a manner acceptable to the Commission—

(A) the violation by such enemy government or its agent of the provisions of title III, section III, of the Geneva Convention of July 27, 1929; or

(B) any inhumane treatment as defined herein.

Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act. In no event shall the compensation allowed to any prisoner of war under this subsection exceed the sum of \$1.50 with respect to any one day.

(4) Claims pursuant to subsection (d) (2) shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall, in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(A) widow or husband if there is no child or children of the deceased;

(B) widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(C) child or children of the deceased (in equal shares) if there is no widow or husband; and

(D) parents in (equal shares) if there is no widow, husband, or child.

(e) (1) As used in this subsection the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time subsequent to June 25, 1950, by any hostile force with which the Armed Forces of the United States were actually engaged in armed conflict subsequent to such date and prior to the date of enactment of this subsection, [except any such member] or any person (military or civilian) assigned to duty in the U.S.S. Pueblo who was captured by the military forces of North Korea on January 23, 1968,

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and thereafter held prisoner by the Government of North Korea for any period of time ending on or before December 23, 1968, except any person who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under title III, section III, of the Geneva Convention of July 27, 1929, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used herein shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 2, 3, 7, 10, 12, 13, 21, 22, 54, 56, or 57 of the Geneva Convention of July 27, 1929.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) or the inhumane treatment described in subparagraph (B). In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by paragraph (4) of subsection (d) of this section.

(5) Each claim filed under this subsection must be filed not later than one year from whichever of the following dates last occurs:

(A) The date of enactment of this subsection;

(B) The date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) The date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

(D) In the case of any person assigned to duty in the U.S.S. Pueblo referred to in paragraph (1) of this subsection, one year after the date of enactment of this subsection.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practi-

cable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7)(A) There are hereby authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(B) The Commission shall determine, from time to time, the share of its administrative expenses attributable to the performance of its functions under this subsection and make the appropriate adjustments in its accounts, and determinations and adjustments made pursuant to this subparagraph shall be final and conclusive.

(f)(1) As used in this subsection—

(A) the term "Vietnam conflict" relates to the period beginning February 28, 1961, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress; and

(B) the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States who was held as a prisoner of war for any period of time during the Vietnam conflict by any force hostile to the United States, except any such member who, at any time, voluntarily, knowingly, and without duress, gave aid to or collaborated with, or in any manner served, such hostile force.

(2) The Commission is authorized to receive and to determine, according to law, the amount and validity, and provide for the payment of any claim filed by any prisoner of war for compensation for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to furnish him the quantity or quality of food prescribed for prisoners of war under the terms of the Geneva Convention of August 12, 1949. The compensation allowed to any prisoner of war under the provisions of this paragraph shall be at the rate of \$1 for each day on which he was held as a prisoner of war and on which such hostile force, or its agents, failed to furnish him such quantity or quality of food.

(3) The Commission is authorized to receive and to determine, according to law, the amount and validity and provide for the payment of any claim filed by any prisoner of war for compensation—

(A) for the failure of the hostile force by which he was held as a prisoner of war, or its agents, to meet the conditions and requirements prescribed under chapter VIII, section III, of the Geneva Convention of August 12, 1949, relating to labor of prisoners of war; or

(B) for inhumane treatment by the hostile force by which he was held, or its agents. The term "inhumane treatment" as used in this subparagraph shall include, but not be limited to, failure of such hostile force, or its agents, to meet the conditions and requirements of one or more of the provisions of articles 3, 12, 13, 14, 17, 19, 22, 23, 24, 25, 27, 29, 43, 44, 45, 46, 47, 48, 54, 55, 56, 57, 58, 59, 90, 97, or 98 of the Geneva Convention of August 12, 1949.

Compensation shall be allowed to any prisoner of war under this paragraph at the rate of \$1.50 per day for each day on which he was held as a prisoner of war and with respect to which he alleges and proves in a manner acceptable to the Commission the failure to meet the conditions and requirements described in subparagraph (A) of this paragraph or the inhumane treatment described in subparagraph (B) of this paragraph. In no event shall the compensation allowed to any prisoner of war under this paragraph exceed the sum of \$1.50 with respect to any one day.

(4) Any claim allowed by the Commission under this subsection shall be certified to the Secretary of the Treasury for payment out of funds appropriated pursuant to this subsection and shall be paid by the Secretary of the Treasury to the person entitled thereto, and shall, in the case of death or determination of death of the persons who are entitled, be paid only to or for the benefit of the persons specified, and in the order established, by subsection (d)(4) of this section.

(5) Each claim filed under this subsection must be filed not later than three years from whichever of the following dates last occurs:

(A) the date of enactment of this subsection;

(B) the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(C) the date upon which the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States.

The Commission shall complete its determinations with respect to each claim filed under this subsection at the earliest practicable date, but in no event later than one year after the date on which such claim was filed.

(6) Any claim allowed under the provisions of this subsection shall be paid from funds appropriated pursuant to paragraph (7) of this subsection.

(7) There are authorized to be appropriated such amounts as may be necessary to carry out the purposes of this subsection, including necessary administrative expenses.

(f)(g) Where any person entitled to payment under this section is under any legal disability, payment may be made in accordance with the provisions of subsection (e) of section 5.

Mr. BAYH. Mr. President, I should like to reemphasize my main purpose for rising, and that is to make clear that, regardless of our position on the amendment of the distinguished Senator from Kansas or, indeed, our positions on the direction in which the war has headed since the expansion into Cambodia, it would be folly for those in North Vietnam or in Moscow or any place else to misinterpret this expression in the traditional and best manner of free speech in this country as anything less than an expression of determination on our part to take whatever steps necessary to obtain the release of these prisoners. That is why I have spoken this afternoon. I am hopeful that many other Members of this body will express a similar concern about the future safety and well-being of those young men who have given so much for our country in North Vietnam.

Mr. CRANSTON. Mr. President, I came to the Chamber to join in this discussion of the pending amendment and the prisoner of war situation facing our country because of the deep concern all of us have over this unhappy matter. I am certain that virtually every Senator—if not all Senators—has constituents who are prisoners of war. I am certain that among our constituents are wives, mothers, children, or other loved ones who are deeply concerned over the fate of American prisoners of war in Southeast Asia.

So much has been so eloquently said by the Senator from Idaho and the Senator from Indiana that there is little

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that one can add, except to say that all of us here, of course, share this concern. All of us are appalled at the incredibly awful treatment accorded prisoners of war by our enemy, most of all by their use of those prisoners for political purposes, and the heartless withholding of the names of those held, so that loved ones here are left in doubt as to whether people missing in action are alive or dead.

I support the efforts of this administration to deal with this problem in appropriate ways. I do not think that the pending amendment is an appropriate way. It collides not only with the spirit and intent of the Cooper-Church amendment but also, in effect, with the policy of the President, which the Cooper-Church amendment is designed to support and to share responsibility with, because the President has stated that he will not have American troops go more than 20 miles into Cambodia, that he will have them out by July 1. The implication of this amendment is that he should be free to go anywhere at any time in Cambodia as long as prisoners of war are there or elsewhere in Southeast Asia.

It is rather plain that the way to get American prisoners of war home is to first get our troops out of Southeast Asia. The developments will then make it quite possible to get all our prisoners home, also. The Cooper-Church amendment—and other moves afoot on Capitol Hill—are designed to bring that war to an end in a way consistent with the safety and systematic removal of American troops from Southeast Asia; and I believe that will be followed by the safe and systematic return to America of prisoners of war.

Therefore, I join with those who oppose the pending amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. DOLE. I have listened with interest to the Senator from California, the Senator from Idaho, and the Senator from Indiana, and I understand their concern—everyone's concern—for American prisoners of war and Americans missing in action. I applaud the statements by the Senator from Indiana, the Senator from California, the Senator from Idaho, and others who may speak this afternoon about prisoners of war or those missing in action. But I would suggest to my friend from California that I fail to see how we have any leverage if we wait until troops are withdrawn and then go to the enemy and say, "Please release our prisoners." If we have any leverage it is because we have some impact in that area and some strength. My amendment would give the President the right to rescue prisoners.

Would the Senator from California agree if the President had an opportunity to rescue prisoners he should take advantage of such an opportunity?

Mr. CRANSTON. We have been applying a great deal of leverage for a long time in Southeast Asia without achieving the results we are entitled to expect to achieve by that leverage, particularly when that leverage involves the deaths

of Americans, the maiming of Americans, and the spending of billions of dollars in that fruitless effort. We will have more prisoners of war to be concerned about as long as the war continues. I believe that the surest way to end the increasing numbers of prisoners of war is to get those back who are there now, and to turn in the direction of getting out of Southeast Asia.

Mr. DOLE. Does the Senator believe that the President, whoever he might be, has the right to rescue American prisoners, American newsmen, or any other American citizens, or should he be denied that right?

Mr. CRANSTON. I believe the soundest way to rescue those people from their very unhappy fate, those presently alive there, is to find a way to end the hostilities that presently divide us and make it possible, through a negotiated settlement, that we will include the release of our prisoners.

Mr. DOLE. Well, I do not want to belabor the point, but it appears that the Senator from California has not responded to the question of whether the President, whoever he may be, has the right to rescue American prisoners or Americans missing in action, whether they be members of the Armed Forces, newsmen, or civilians. Does the Senator believe that is a right the President should have, or should we in Congress tie the President's hands?

Mr. CRANSTON. I believe that the President has that right but I do not believe the way to achieve that right is to have open-ended, everlasting war, with the President permitted, without consultation with Congress, or proceeding without consultation with Congress, to send ground troops in all directions into any new land, without any invitation from those governments, and involving ourselves in invasion, unprecedented in American history, leading to more prisoners of war, more dead, more wounded, with no end in sight.

Mr. DOLE. Again I do not quarrel with the Senator from California. I understand his good intentions, but would say that if any measure would require the President, whoever he may be, to consult first with the Senate or Congress before he could take any action to rescue prisoners of war, I would not want to be a prisoner while the matter was being debated in Congress, not knowing how long it would take—2 or 3 weeks, a month, or longer. I believe that when Americans are imperiled and are in immediate danger, someone in this country should have the right to rescue them.

Why should we shackle the President? We have never done so in the past.

Mr. CHURCH. Mr. President, a false issue is being raised in this debate.

No one is questioning the right of the President of the United States, acting as Commander in Chief, to come to the rescue of captured Americans if he feels that a quick, surprise rescue operation is feasible.

We are all grown men. I cannot conceive of anyone standing here on the floor of the Senate and questioning the right of the President to order such a rescue mission if the opportunity pre-

sented itself; I cannot conceive of a serious challenge being raised to the President's inherent authority, as Commander in Chief, under such circumstances.

One can attempt to distort the Cooper-Church amendment, to read into it some imaginary prohibition that is not there. But if the amendment offered by the Senator from Kansas is affixed to the Cooper-Church amendment, it will have only one effect, and that will be to render meaningless the attempt on the part of the Senate to set the outer limits of American involvement in Cambodia.

What is the logic of the argument offered by the Senator from Kansas?

He argues that, as long as a prisoner of war is held in Cambodia, we should legislate what, in effect, is congressional consent to leaving an American Army in that country indefinitely.

The logic is that by applying relentless and unceasing military pressure, we somehow serve the interests of those Americans captured by the enemy and held in Cambodia.

If there is any sense to that proposition, then it is as sensible to apply it to North Vietnam or Laos as to Cambodia.

There are only a handful of American prisoners—if any at all—in Cambodia. But there are many hundreds of American prisoners in North Vietnam.

If the Senator is really serious about his amendment, if he actually believes that a continued American military presence helps our prisoners of war, then why does he not expand the amendment to include Laos and North Vietnam?

Mr. DOLE. Would the Senator from Idaho support it, if I made that addition?

Mr. CHURCH. I would not support it under any circumstances, because the whole proposition on which it rests is invalid. But anyone who believes the proposition, could hardly contend that the amendment should be restricted to Cambodia, if its purpose is really to serve the cause of American prisoners of war.

If one were to accept the logic with which the amendment is pressed, it would also follow that we should not withdraw another 150,000 American combat troops from South Vietnam, in the interest of helping American prisoners of war in North Vietnam.

Let the Senator from Kansas show me a logical distinction between the argument he makes on behalf of his amendment as it applies to Cambodia, and the application of the same argument as it would apply to the bulk of American prisoners in North Vietnam.

Yet, he does not come here to ask that we write into law some prohibition against the withdrawal of 150,000 American troops from South Vietnam.

What is really intended is to gouge out the substance and the core of the Cooper-Church amendment by playing on our deep concern over American prisoners of war.

Let the Senator from Kansas show how a single American prisoner of war will be helped, whether imprisoned in Cambodia, Laos, or North Vietnam, with the passage of his amendment.

It cannot be shown.

The only effect of the amendment, if

the President were ever to take it seriously—and one would assume that he would not—would be to keep us indefinitely engaged in Cambodia, where the number of American dead would continue to grow with each passing week, along with the number of Americans maimed and wounded, and where the list of American prisoners of war would also grow larger and larger.

The longer we stay in Southeast Asia, the more Americans there will be who will be imprisoned and mistreated.

I submit, Mr. President, that the real impact of the amendment would not be to help American prisoners of war in any way but, rather, if taken seriously by the President, to create a situation in which the numbers of Americans captured would increase with every passing day.

Mr. BAYH. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield.

Mr. BAYH. I would like to emphasize what the Senator from Idaho has said, that we do not know of any specific numbers of prisoners who are presently captured in Cambodia, but we do know of large numbers who are missing in action and presumed captured elsewhere.

And I would again like to return to the focal point, the fact that these men are being held contrary to the principles of the Geneva Convention that all civilized nations adhere to. Their names are not even published so that their loved ones will know whether they are alive and well. They are denied mail. They are denied proper physical and medical attention.

If this were not so, why would they not let the International Red Cross have an opportunity to inspect these camps so that the whole world would know they are being treated properly?

We are equally concerned, if not more concerned, with the barbarous manner in which they are treating prisoners of war.

Mr. President, I think this is adequately described in an editorial published in the May 5, 1970, issue of *Look* magazine entitled "What about the POW's?"

I ask unanimous consent to have this editorial printed at this point in the *Record* so that those who may not have seen it prior to this time will have an opportunity to read it.

There being no objection, the editorial was ordered to be printed in the *Record* as follows:

[From *Look* magazine, May 5, 1970]

WHAT ABOUT THE POW'S?

The plight of American prisoners of war in Southeast Asia, as Diana O'Grady said on the preceding page, cannot be "a closed book." More than 1,500 men are missing or presumed captured: some 800 in North Vietnam and 200 in South Vietnam, and 200 in Laos. Their fate should concern every one of us. However we may feel—or differ—about U.S. intervention in Vietnam.

North Vietnam has never extended the POW's their rights under the Geneva Convention on Protection of Prisoners of War, which it signed in 1957. It has evaded this pledge through the fiction that the downed American pilots are criminals. Were this so—and we at *LOOK* do not believe it is—the men would still be entitled to humane treatment.

But the few returning POW's have told of Americans isolated, beaten, and humiliated in North Vietnam, hung by their wrists in Laos, led about like animals or summarily shot in South Vietnam. Such reports gain credence from North Vietnam's complete unconcern for its own prisoners held in the South and in Laos.

Nor can there be any justification for tormenting the wives and children of American prisoners. Why should a woman have to plead for the right to know if her husband is alive? Not until Diana O'Grady got tough did she get an answer. After months of despair, other wives have had to endure propaganda lectures. They have been told they will only get their husbands back if they demonstrate at home against the war. They have been promised information that has then been withheld or leaked only for propaganda purposes.

In 1968 and 1969, *LOOK* editorials called the Vietnam war a tragic and costly mistake—one that we should end as soon as possible. This does not diminish our concern for the Americans held captive.

That is why we now ask North Vietnam to disclose the names of all the POW's it holds and to urge the National Liberation Front and the Pathet Lao to do the same. We ask for assurance of proper detention facilities, food and medical care for the POW's. We ask for unhampered correspondence with their families. We ask for the repatriation of sick or wounded who might not survive captivity. In short, we ask that North Vietnam honor its legal obligations under the Geneva Convention.

We ask that the International Red Cross or International Control Commission be permitted to inspect the prison camps in North Vietnam, as has been done in the South. Refusal can only mean that North Vietnam is ashamed of the way it treats American POW's.

In addition, we have written the Hanoi government requesting that a *LOOK* team be allowed into North Vietnam to report directly on the condition of the POW's.

We now ask the American people, alone or in community groups, to express their concern for our men missing and captive in a letter to North Vietnam's Premier, Pham Van Dong. Letters sent to: *What About the POW's?*, c/o *LOOK*, P.O. Box 1, Des Moines, Iowa 50301 will be forwarded to Hanoi.

The welfare of these unfortunate men and the feelings of their families are matters of simple humanity—not politics.

North Vietnam has said in the Paris peace talks that discussion on the POW's cannot begin until the other issues of the war are resolved. This completely misreads the mood of the American people. Yes, we want peace in Vietnam, as much as anyone and as quickly as possible, but first we want assurance about the well-being of all our servicemen in captivity. The sooner Hanoi understands this, the easier it will be to end the war.

Mr. HUGHES. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. HUGHES. Mr. President, I endorse the statement of the Senator from Idaho in his colloquy this afternoon with the Senator from Indiana.

I think that North Vietnam undoubtedly does misread the intention of those of us who oppose this war in Vietnam and the incursion into Cambodia.

I am afraid that perhaps the Senator from Kansas might misread our intent also, although I do not believe that he does.

Certainly none of us would wish to prohibit the President of the United States from taking whatever steps he

feels are necessary to negotiate and secure the humane treatment and the return of those American soldiers who are being held by the enemy.

I agree with the Senator from Idaho that this amendment may actually inhibit the negotiations that would bring about a release of these prisoners. I think that although none of us likes it, undoubtedly our invasion of Cambodia has increased the danger to those men being held prisoner in Vietnam as well as to those being taken prisoner now in Cambodia.

While certainly the North Vietnamese have defied all rules for handling prisoners of war and have refused to admit that our men are entitled to proper treatment, they have not conducted the public trials which they threatened to carry out in the early days of this war.

I believe that the proper and most efficient way to secure the release of these men is through the Paris peace negotiations. If the President would appoint a man of proper status to represent the United States in those talks, there would be a greater hope that we could obtain their release.

I certainly subscribe to the statement of the Senator from Idaho and the Senator from Indiana that those of us who oppose this war would hope that those in Peking, Moscow, or Hanoi would not misread our intentions. We desire to secure proper and humane treatment, exchange of those who are seriously wounded and ill, and negotiations for a general exchange of all prisoners of war.

I want to lend my voice, for whatever it is worth at this particular time, to the viewpoint expressed that the amendment of the Senator from Kansas would inhibit those negotiations rather than increase the prospects for such negotiations.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. McGOVERN. Mr. President, I came to the floor originally to speak in support of the concern expressed by the Senator from Indiana (Mr. BAYH) and also to say a word in opposition to the amendment offered by the Senator from Kansas (Mr. DOLE).

I think the difficulty with that amendment is that it leaves the impression that the keystone of the policy in Cambodia is the welfare of the American prisoners of war, which is of course not the reason that we entered Cambodia. Our staying there only prolongs the release of any prisoners of war who might be held by the enemy forces.

I think that what we have to keep in mind, whether we are talking about the prisoners of war in North Vietnam, where the main force of American prisoners are being held, or the prisoners who might have been taken in Cambodia, is that in all probability no matter how many speeches we make on the Senate floor or how many resolutions of concern we author, those prisoners will doubtless be held until hostilities cease.

The purpose of the basic amendment offered by the Senator from Idaho (Mr. CHURCH) and the Senator from Kentucky (Mr. COOPER), as well as the so-called amendment to end the war offered

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by me and other Senators, is to bring the hostilities to an end, but to do it with an eye on the safety of our troops in Southeast Asia, and also to make what efforts we can to bring about a release of our prisoners of war.

If I were an American GI sitting in a prisoner of war camp, either in North Vietnam or in Cambodia, or if I were an American fighting man involved in this war, I think I would be praying every night that this amendment to make sure that our forces are taken out of Cambodia, as indicated by the President, and the additional amendment to bring the war in Vietnam to an early end, would pass.

I see no other way in which Congress can really be effective in serving those prisoners and effecting their release at an early date.

I want to add one final word. We need to keep in mind that if there is any one reason why the war continues in Southeast Asia, it is because of the opposition of the enemy forces to the government in Saigon and our insistence that we are going to sustain that government and maintain whatever forces are necessary to sustain it.

That really is the keystone of our policy, rather than the matter of prisoner exchange.

I suggest that as long as that policy is carried out, the war will continue.

We need to keep in mind at a time when we are shedding American blood to save the regime in Saigon that the record of that regime on the treatment of prisoners has not been entirely pure.

The military reports of the torture of prisoners on the part of our forces, on the part of the South Vietnamese Government, are not reassuring to me, considering our sacrifice in blood and treasure to safeguard and sustain that regime in Vietnam.

I think we would be in a stronger moral position to protest the objectionable treatment of our own prisoners of war on the part of North Vietnam and the North Vietnamese if the record of our own ally, South Vietnam, were somewhat better.

I conclude simply with another appeal for us to recognize that the only way to make sure that our prisoners are released and our fighting men saved is to bring this war to an orderly end.

And that, I know, is what the Senator from Idaho is trying to accomplish.

Mr. CHURCH. Mr. President, I concur with what the Senator has said. If this war were comparable to the kind of wars we have fought in the past, if our purpose were to conquer North Vietnam and impose unconditional surrender upon the enemy, it would then be possible to make, at least, a rational case for the amendment offered by the Senator from Kansas.

This is not, however, that kind of war. Nor was it ever intended to be, either on the part of the present occupant of the White House or any of his predecessors. No President, at any time, has indicated that our purpose in this war was to invade, conquer, or force the government in Hanoi to an unconditional surrender.

President Nixon has repeatedly ex-

plained to the American people that our participation in Vietnam is for a limited purpose. He has emphasized that our purpose is only to help the government in Saigon put down the insurrection against it.

Under these circumstances, it makes no sense to argue that by applying military pressure we can somehow come to the rescue of American prisoners of war. How can we possibly reach them if our military objective does not involve the occupation or conquest of the enemy's territory? There is no way, by military means, to serve or save American POW's in a limited war of this kind.

Moreover, as the Senator from South Dakota wisely pointed out, this is a war of deep hatreds; it entails the kind of bloodletting which occurs only in civil war situation, where brother turns against brother, where families split apart. Only once in our history have we suffered such a bloodletting in this country, and that occurred in the great War Between the States from 1861 to 1865, our Civil War.

But even if, under some unforeseen circumstance, the President were to cast aside all the limits we have imposed on this war, and suddenly were to declare that the United States had decided to conquer North Vietnam, even then I doubt that our prisoners of war would be well served by the more forcible application of our military might. For I am sure that, given the character of this war, by the time we finally reached the camps where our men are being held captive, we would never find them left alive.

No, Mr. President. There is only one way to serve the American prisoners of war. That is the way suggested by the distinguished Senator from South Dakota: To begin to set the outer limits of our involvement in this widening war by the adoption of the Cooper-Church amendment, and then to proceed to extricate the United States from its involvement in Southeast Asia through the adoption of the end-the-war amendment which the Senator from South Dakota, the Senator from Idaho, and others are urging. This would set into effect a train of events that would lead to the release of American prisoners of war and their safe return home.

Those of us who have opposed this war through the years have felt every bit as much compassion for American prisoners of war as those Members of the Senate who have constantly favored the war.

Mr. President, I went back over the RECORD to a time long before the Senator from Kansas was a Member of this body, back to July 15, 1966, when opinion in support of the war was nearly monolithic in the United States, when only a few of us in the Senate had spoken out against it. At that time, a very serious threat was posed to American prisoners, mostly airmen, who had been shot down while bombing North Vietnam. The threat took on a particularly ominous character, because the Hanoi government had announced it would treat the prisoners as common criminals. The North Vietnamese intended to proceed to their trial and public execution.

It was suggested to me, at that time, that I might, with the assistance of others in the Senate who had spoken out against the war, be of help to those American airmen.

Spokesmen for the previous administration, charged with the conduct of the war, admitted to me that their own appeals had fallen on deaf ears in Hanoi. They said, however, that if those Members of the Senate who had opposed the war would speak up, it might prove possible to save the American airmen who were faced with trial and execution.

On July 15, 1966, joined by 18 other Members of the Senate, I entered in the CONGRESSIONAL RECORD a statement entitled "A Plea for Sanity." That statement was translated into Vietnamese and brought to the attention of the Hanoi government. It read as follows:

A PLEA FOR SANITY

We, the undersigned, have previously protested the relentless escalation of the war in Vietnam. We have deplored those decisions, taken on both sides, which have steadily extended the dimensions of the war and intensified its fury.

The struggle in Vietnam now approaches a peril point of no return. Violence begets more violence; the fever of reprisal rises, feeding upon itself; reason is in danger of falling prisoner to blind passion. Then the war becomes a raging inferno, burning away the last barriers of restraint.

We apprehend that the execution of American prisoners, as threatened by the government of North Vietnam, would provoke the gravest reprisals, and further blacken the hopes for peace.

In the past, we have worked for an honorable settlement of this tragic war. We have publicly criticized the mounting involvement of our own country, and have sought to keep open the path of moderation that could lead to a negotiated peace.

So, before the last remnants of reason are irrevocably abandoned, we call upon the Hanoi government to refrain from any act of vengeance against the American airmen. They are prisoners of war, fully entitled to the protection extended to men in uniform when captured in the performance of their duty. Their execution would drastically reduce the influence of all those in the United States who have tried to curtail the fighting. It would incite a public demand for retaliation swift and sure, inflicting new levels of suffering and sorrow, and fixing more firmly still the seal of an implacable war.

Mr. President, that statement was signed by the following Senators, in addition to myself: GEORGE MCGOVERN, GAYLORD NELSON, E. L. BARTLETT, LEE METCALF, EUGENE J. MCCARTHY, MAURINE B. NEUBERGER, J. WILLIAM FULBRIGHT, QUENTIN N. BURDICK, FRANK E. MOSS, ERNEST GRUENING, STEPHEN M. YOUNG, VANCE HARTKE, WAYNE MORSE, WILLIAM PROXMIRE, ABRAHAM RIBICOFF, JOSEPH CLARK, HARRISON A. WILLIAMS, JR., EDMUND S. MUSKIE.

Following the printing of the statement in the RECORD, there occurred a floor colloquy in which other Senators, who were not themselves signatories to the statement but nonetheless supported it in spirit, joined in a common expression of concern for these prisoners of war. They, too, entered statements of their own.

One such Senator is now our esteemed whip, the Senator from Massachusetts (Mr. KENNEDY). One was the Senator from Ohio (Mr. YOUNG). One was the

distinguished majority leader, the Senator from Montana (Mr. MANSFIELD). And still another was the late Robert Kennedy of New York.

Mr. President, I ask unanimous consent that the statement appearing in the CONGRESSIONAL RECORD of Friday, July 15, 1966, together with the colloquy to which I have referred, may appear at this point in the RECORD.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

AMERICAN PRISONERS IN HANOI—A PLEA FOR SANITY

Mr. CHURCH. Mr. President, I have been gravely disturbed at persistent reports that the government in Hanoi has threatened to execute, as common criminals, American airmen who are now prisoners of war.

Accordingly, I have prepared a statement, "A Plea for Sanity," in which I am joined by 18 other Members of the Senate.

This declaration has been just released to the press, and I shall, at this time, read it into the RECORD.

"A PLEA FOR SANITY"

"We, the undersigned, have previously protested the relentless escalation of the war in Vietnam. We have deplored those decisions, taken on both sides, which have steadily extended the dimensions of the war and intensified its fury.

"The struggle in Vietnam now approaches a peril point of no return. Violence begets more violence; the fever of reprisal rises, feeding upon itself; reason is in danger of falling prisoner to blind passion. Then the war becomes a raging inferno, burning away the last barriers of restraint.

"We apprehend that the execution of American prisoners, as threatened by the government of North Vietnam, would provoke the gravest reprisals, and further blacken the hope for peace.

"In the past, we have worked for an honorable settlement of this tragic war. We have publicly criticized the mounting involvement of our own country, and have sought to keep open the path of moderation that could lead to a negotiated peace.

"So, before the last remnants of reason are irrevocably abandoned, we call upon the Hanoi government to refrain from any act of vengeance against the American airmen. They are prisoners of war, fully entitled to the protection extended to men in uniform when captured in the performance of their duty. Their execution would drastically reduce the influence of all those in the United States who have tried to curtail the fighting. It would incite a public demand for retaliation swift and sure, inflicting new levels of suffering and sorrow, and fixing more firmly still the seal of an implacable war.

"FRANK CHURCH, GEORGE MCGOVERN, CLAYLORD NELSON, E. L. BARTLETT, LEE MCGALF, EUGENE J. MCCARTHY, MAURINE B. NEUBERGER, J. WILLIAM FULBRIGHT, QUENTIN N. BURDICK, FRANK E. MOSS, ERNEST GRUNING, STEPHEN M. YOUNG, VANCE HARTKE, WAYNE MORSE, WILLIAM PROXMIRE, ABRAHAM RIBICOFF, JOSEPH B. CLARK, HARRISON A. WILLIAMS, JR., EDMUND MUSKIE, U.S. Senators."

Mr. KENNEDY of Massachusetts. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY, of Massachusetts. As the Senator is probably aware, yesterday morning the Subcommittee on Refugees and Escapees, which is conducting a series of hearings on the various refugee programs, heard testimony by the Secretary of State.

In the course of that hearing I asked the Secretary of State directly what the attitude

of the U.S. Government would be if these trials scheduled for the end of next week took place. The Secretary made an extremely forthright, strong, and vigorous policy statement. He indicated, first of all, that if these trials took place, that we, as a nation, would look upon such behavior by the North Vietnamese with the greatest degree of horror and revulsion. The Secretary stated that every effort was being made by the United States, by third countries, as well as by prominent individuals, to bring our very strong position on this matter to the attention of those in responsible positions in the Hanoi government. I was very much heartened by the Secretary's statement. I am sure that he is aware that we are all relying upon the administration's activities on this problem and hopeful that they will spare no effort to assist the prisoners.

Mr. President, the war in Vietnam is perhaps one of the most impersonal of conflicts undertaken by nations. I have had serious questions in the past concerning our activities in Vietnam and its effects upon the civilian population. On the other hand I have been appalled by the incidents of terror and assassination that the Vietcong have used to achieve their ends in this struggle. The possibility that prisoners of war will now be used to satisfy the frustrations of the north or in a vain attempt to effect our future military decisions is only a further reflection of the absence of considerations for the innocent and those now removed from this conflict. But this prospect of violence against helpless men, in violation of all traditional international agreements, is uppermost in the minds of all Americans today, regardless of their views of the overall conflict. I know of two American fighting men from my own State, Comdr. James Mulligan and Lt. Edward Brudno who, having faced and met their military obligations now find themselves the victims of retaliation in the larger political and ideological struggle of our day.

So I wish to join the Senator from Idaho [Mr. CHURCH] in his very strong declaration and statement of concern for the welfare and the well-being of the American servicemen who are being held as prisoners.

During the testimony by the Secretary of State we asked him about the South Vietnamese Government's observing the Geneva agreements on prisoners of war. He indicated that the names of prisoners in the hands of the South Vietnamese are now being turned over to the International Red Cross, that the Red Cross has access to all prisoners, and that the South Vietnamese Government is now in full cooperation with the International Red Cross.

I recall that on two occasions when I was in Geneva talking with the International Red Cross, they were, as of December of last year, expressing criticism of the South Vietnamese Government for their reluctance in turning over the names of the Vietcong and North Vietnamese prisoners that the South Vietnamese had taken. These lists were not available and the Red Cross indicated to me and the other members of the delegation who were at Geneva at that time their strong feeling that the United States should utilize its good offices with the South Vietnamese to have the South Vietnamese observe to the fullest extent the Geneva Convention.

The Secretary indicated on yesterday that he was firmly convinced that we are now observing these conventions in the fullest. This development, though late in coming is a source of satisfaction to those of us who have been concerned with prisoner indignities.

I also feel that the people of the free world have recognized the very strong effort recently made by the United States in attempting to insure that all in the south were respecting these Geneva agreements. On his basis, we have every right to expect the north

to act in accordance with the norms of civilized men. So little of human dignity survives war that we are justified in abhorring such regressive actions as contemplated by the north and to remind them that the beginnings of peace are found in civilized behavior toward their fellow man. I therefore want to say to the Senator from Idaho that he has performed a very useful service today, one for which he deserves great commendation.

Mr. CHURCH. I thank the Senator very much.

Mr. YOUNG of Ohio. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from Ohio.

Mr. YOUNG of Ohio. Mr. President, this afternoon, in this Chamber, let me attest to my admiration for the distinguished Senator from Idaho [Mr. CHURCH] for the real public service he has rendered in presenting his statement today before the country and the world.

Earlier today, I was glad to be associated with him when he and I talked over the statement he was going to make.

Surely, the heads of state of the nations of the world, including those in Hanoi, Red China, and all other Asiatic countries, whether they be somewhat neutral in this matter or extremely hostile toward the United States because of its involvement in Vietnam, must know—and they should know—that all Americans regard the lives of their airmen who are now prisoners of war as precious lives. All Americans hold to the view that these airmen are prisoners of war. As fighting men in our Armed Forces, they were flying over the areas where they were shot down in North Vietnam pursuant to orders given them. They must, therefore, be treated as prisoners of war.

If the horrible act which is being threatened by the Hanoi regime against our airmen is carried out, let the rulers of the world know that all Americans will be united, because we regard those lives as so precious.

Let me repeat, I was glad to join with other colleagues in the statement of the Senator from Idaho. We want the rulers of the world over—friendly or unfriendly—to know our views and our determination.

Mr. CHURCH. I thank the Senator from Ohio, and fully share his sentiments. I appreciate the fact that he has joined in signing the statement which I have just read into the RECORD this afternoon.

Mr. MANSFIELD. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I commend the Senator from Idaho for the initiative he has just shown, and the initiative the other Senators have shown in signing the plea for sanity.

I would say that the sentiments expressed in the statement which has just been read would apply not only to the 18 signatories but also to the 100 Members of this body.

The Senator from Idaho has once more performed a public service on the question of Vietnam. I would express the hope that this plea for sanity would be a plea for sanity on all sides.

As Senators know, the Prime Minister of India, Mrs. Indira Gandhi, is just completing an official state visit to the Soviet Union. She will be leaving shortly, but during the course of this meeting she has placed before Messrs. Kosygin and Brezhnev the possibility of a seven-point peace program which could possibly lead to the negotiation table.

Mr. MANSFIELD. Mr. President, I know that there are those who find fault with anyone who uses the word "peace," or repeats the word "negotiations." However, somehow, some way, some time, the situation in Vietnam will be settled at the conference table

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through negotiations. It is just not going to peter out. I would hope that in view of the proposal made by the Prime Minister of India, Mrs. Indira Gandhi, and tied in with the fact that the Prime Minister of the United Kingdom, Mr. Harold Wilson, will, next week, be visiting the Soviet Union, when Mr. Wilson and Messrs. Kosygin and Brezhnev meet, they will recognize their responsibilities as cochairmen of the Geneva Conventions of 1954 and 1962, and that they will exercise their authority and assume their responsibilities, and on their own initiative reconvene the Geneva Conference for the purpose of getting the situation in Vietnam to the negotiation table.

I think it is imperative. I know that so far as the President of the United States is concerned, no man is more eager to reach that table, to sit down with whoever may be there, and to arrive at a reasonable and an honorable settlement—a settlement which will give some degree of assurance to all of southeast Asia—not just Vietnam—a settlement which will be guaranteed by all the great powers, a settlement which will allow us to get out of Vietnam, not to withdraw hastily, and a settlement which will make it very apparent that we have no desire for bases such as Cam Ranh and others by means of which we could maintain a foothold for years and decades to come.

Every word I have stated, I am sure, fits in with what the President has been trying to do over this past year or more to bring this matter to a conclusion.

Accordingly, I hope that Mr. Wilson and Messrs. Brezhnev and Kosygin will take up the proposals laid down by Mrs. Indira Gandhi, Prime Minister of India, and that out of this meeting in Moscow next week will come some small ray of hope which will bring this matter to a conclusion and bring back to the world—especially to the Far East, and most especially to southeast Asia—a degree of stability and peace which it has not had for more than two decades.

So, again, I commend the distinguished Senator from Idaho and his colleagues for taking this initiative and express the hope that his efforts, which have been persistent, and accomplished under difficulties—because he has received his share of criticism—will continue.

I am delighted that this statement has been made, and again extend my commendation and thanks to him.

Mr. CHURCH. I thank the able Senator very much. I would only mention that nearly all of the Senators who have joined in the signing of this plea previously joined in a letter to the President, last January, expressing the hope that the suspension of the bombing, then in effect, would be continued, and that the new round of bombing would not be renewed.

Some Senators who joined in the signing of this plea were not parties to that letter, but are nonetheless identified as Senators who have resisted the acceleration of the war, who have sought to further the efforts for peace, and who have worked to keep open the path of moderation which might lead to negotiations.

As to the threatened execution of these American prisoners of war, we hope to make it unmistakably clear that the consequences of such an atrocity will be very grave. By adding our voices in timely warning, we seek to contribute to the saving of these lives, and to prevent further escalation of the war in southeast Asia, with all the dire results that could follow.

I yield now to the Senator from New York [Mr. KENNEDY].

Mr. KENNEDY of New York. First, Mr. President, I wish to commend the Senator for his efforts, and that of his fellow Senators.

Mr. President, regardless of one's opinion of the war, or of the bombings of North

Vietnam, there is no justification and no excuse for the personal reprisals now threatened by Hanoi against individual American pilots. These men, in the oldest tradition of war, were following the orders of superior officers to attack targets which to the best of their knowledge were military involving no loss or damage to civilian life. They were doing their duty for their country—just as the soldiers of North Vietnam are acting according to their duty as defined by their leaders.

I have dissented at many points from this war and its conduct. But I am at one with all Americans in regarding any reprisals against these young men and indirectly against their families, as an intolerable act—contrary to the laws of war, contrary to all past practices in this war, a plunge into barbarism which could serve the interest of no man and no nation.

Moreover, such reprisals would do terrible damage to the possibilities of reasoned discussions between our two countries—which is the only way to a peaceful solution of this conflict. Within our own countries, in international bodies, and in the world at large, the new bitterness and meanness which such reprisals represent would inevitably stifle debate and discussion and, perhaps, place our countries on a course of even-greater escalation, a course from which there is no return.

Mr. CHURCH. Mr. President, I appreciate the eloquent statement made by the distinguished Senator from New York and the general support he has given to the effort by this group of Senators for whom I have spoken. We hope the message will be very clear that the threatened execution of American prisoners of war may well carry this cruel conflict beyond the point of no return.

As one who has constantly sought to find an honorable settlement, who can speak with some measure of independence and objectivity, as one who has frequently disagreed with our own Vietnamese policy, I hope this message will get through.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. CHURCH. Yes; I am very pleased to yield.

Mr. BAYH. I would like to salute my colleague from Idaho for the courageous position which he took. At that particular moment, it was not the most popular thing to do. Neither was it, politically, the most advantageous thing to do. The record will show that the Senator from Idaho and some others who were deeply concerned about the policy of our country at that time did in fact speak out about the callous attitude of the North Vietnamese in regard to the lives of our fliers, and that it had more to do than anything else with the fact that they were not executed as the North Vietnamese had threatened. I salute him for the tremendous contribution he made.

I would hope that perhaps other Senators might join in broadening this colloquy and that this might persuade the North Vietnamese, once again, of the error of their ways concerning the terrible manner in which they are treating American prisoners of war.

Mr. CHURCH. I fully share the sentiment of the Senator.

A few days after the statement to which I referred was released, the government in Hanoi decided against the trials. It did not proceed either to try or execute the American airmen. I was told later by spokesmen for the State Department who were close to the situa-

tion that they thought our timely statement had proved very effectively in Hanoi.

Now is another time for us to speak out, as the Senator from Indiana has done today, to let Hanoi know of our heartfelt concern for American prisoners of war, and the outrage we feel that these men have not received the kind of humane treatment to which they are entitled under the conventions that should govern the conduct of all civilized nations.

Regarding the earlier statement, and in order to make the RECORD complete, I ask unanimous consent that an article dealing with that statement, which appeared in the Boston Sunday Globe on July 17, 1966, may appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PHONE RANG, WITH URGENT PLEA
(By Martin F. Nolan)

WASHINGTON.—The most dramatic, ironic hours in the administration's latest overture to Hanoi began last week when the phone rang in the Bethesda home of Sen. Frank Church of Idaho.

George Ball, the Undersecretary of State, was calling with an urgent plea. It was Thursday night, with the lives of American airmen hanging in the balance and what Church later called "a peril point of no return" approaching the Viet Nam war.

The North Vietnamese government reported ready to announce the trials and expected executions of downed fliers. Ball's message was desperate, acknowledging that all appeals from the President and the State Department through normal diplomatic channels had failed to convince Hanoi that the executions would further escalate the war; the administration's "credibility gap" had stretched across the Pacific.

Since Hanoi had always believed that internal political dissension in America had aided the cause, only a plea from Senate "doves" might save the airmen.

For Church, a member of the Foreign Relations Committee and one of the earliest advocates of de-escalating the war, Ball's telephone request represented supreme irony. Since late 1964, when he first criticized American policy in Viet Nam, the Idaho Democrat had been snubbed by the White House and ridiculed at the State Department. Now he was being asked to help rescue some of the administration's most agonizing chestnuts from a perilous fire.

Had the advice given by Church and other Senate critics been followed, the "very, very grave development"—as Secretary of State Dean Rusk called it—might not have been a threat today. Church and others had opposed bombing the north, claiming it would lead to unforeseen escalation and needless loss of life.

But now, with the deadline in Hanoi approaching, the situation was critical. Church agreed to make a statement and to ask other senatorial critics of the administration to join him.

The 41-year-old senator called several senators for advice and began writing his statement. A press conference was called for Friday afternoon at 2 p.m. for the widest possible "exposure". A special effort was made to get Communist country correspondents to attend; a report for Izvestia showed up.

After calling several senators, including Joseph S. Clark (D-Pa.), vacationing in Wyoming, Church was advised on the statement's preparation. He was advised to keep it short and easily translatable into French for Hanoi's benefit. The word "atrocities" was crossed out to avoid any provocative inference.

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Most of the five-paragraph statement was Church's own, ringing with mountain-state Old Testament rhetoric: "Violence begets violence; the fever of reprisal rises, feeding upon itself . . . then the war becomes a raging inferno, burning away the last barriers of restraint."

At 9 a.m. Friday, Church began to call as many senators as he could. He had to do it himself, since the scope of the subject was beyond the area of staff aides. Few Republicans were reached in the four-hour period although Sen. George Aiken of Vermont and John Sherman Cooper of Kentucky were certified "doves."

Church began with the most severe critics and worked down a list of 15 senators who had signed a request to President Johnson early this year asking a continued suspension of bombing North Viet Nam. He added three new recruits including Sen. J. William Fulbright.

The two Kennedy brothers and Majority Leader Mike Mansfield were reached less than an hour before Church's announcement. They later joined the appeal in spirit with separate statements.

Mr. CHURCH. Mr. President, also I ask unanimous consent that an editorial published in the Lewiston, Idaho, Tribune on July 27, 1966, may appear here in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHURCH'S ROLE IN THE PILOT TRIALS

Idaho Sen. Frank Church played a key and perhaps decisive role in convincing North Viet Nam that American pilots should not be placed on trial as war criminals, according to a behind-the-scenes story in the *Boston Sunday Globe*.

The story goes a long way to explain why Church suddenly came forward with a statement from himself and fellow Senate doves against a threat from Hanoi that few Americans knew existed.

The *Globe* reports the Johnson administration had known about the threatened trials and probable executions and had been unable to dissuade Hanoi through normal channels. Assuming that the North Vietnamese leaders place too much stress on American dissenters as verbal allies, the administration sought to demonstrate that pilot trials would be harmful to Hanoi's cause.

Undersecretary of State George W. Ball called Church and enlisted his help. The *Globe* says this is what happened:

"The 41-year-old senator called several senators for advice and began writing his statement. A press conference was called for Friday afternoon . . . for the widest possible exposure. A special effort was made to get Communist country correspondents to attend; a reporter for *Izvestia* showed up.

"After calling several senators, including Joseph S. Clark, D-Pa., vacationing in Wyoming, Church was advised on the statement's preparation. He was advised to keep it short and easily translatable into French for Hanoi's benefit. The word 'atrocities' was crossed out to avoid any provocative inference. Most of the five-paragraph statement was Church's own, ringing with mountain-state Old Testament rhetoric: 'Violence begets violence; the fever of reprisal rises, feeding upon itself . . . then the war becomes a raging inferno, burning away the last barriers of restraint.'

"At 9 a.m. Friday, Church began to call as many senators as he could . . . Church began with the most severe critics and worked down a list of 15 senators who had signed a request to President Johnson early this year, asking a continued suspension of bombing North Viet Nam. He added three new recruits including Sen. J. William Fulbright. The two Kennedy brothers and Majority

Leader Mike Mansfield were reached less than an hour before Church's announcement. They later joined the appeal in spirit with separate statements."

There is no way of knowing whether the statement by Church and his fellow doves was the persuading influence, but it didn't hurt anything, and it probably was a key factor.

Hanoi has been encouraged by the dissent on the war in America and has remained inflexible in the hope that the U.S. would—at the prodding of the dissenters—grow weary of the conflict. But there are signs Hanoi has placed the wrong emphasis on the dissent—somehow taking it as support for North Viet Nam, somehow equating Church and other senators with that insignificant band of radicals who wave the Viet Cong flag at protest rallies.

Church and the others have never excused the presence of North Vietnamese troops in South Viet Nam, nor do they believe Hanoi is right and America wrong. In the long run, they are unyielding enemies of international communism, especially the Red Chinese variety.

Church and his fellow critics question whether America's best interests are being served by becoming involved in an Asian land war. Certainly, the Red Chinese seems to be delighted by the presence of American troops in Asia as some sort of a confirmation of their propaganda.

In the long run, Church and the others may be wrong. It may be possible to prove something in Viet Nam. But it would be important for Hanoi and the hawks at home to remember that Church and other critics of the war are not taking sides in a struggle between America and international communism. They represent, instead, a third point of view. But when the chips are down and Hanoi or anyone else does force them to take sides, as it did in the case of the pilot trials, Church and the other critics will side with Washington over Hanoi any day.—B.H.

Mr. CHURCH. Mr. President, I also have news releases issued subsequently, which bear out the continuing concern I have felt for American prisoners of war. On May 1, 1970, I joined the distinguished Senator from Kansas as one of the co-sponsors of a resolution he introduced, which had, so far as I know, the unanimous support of the Senate, in which we expressed our strong feeling that these prisoners are entitled to better treatment than they have received from the North Vietnamese. I said at that time:

I hope that this latest Congressional resolution will focus additional attention upon the situation of American POW's and help to assure both humane treatment for them and speed the day of their safe return home.

I ask unanimous consent that the news release dated May 1, 1970, may appear at this point in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEWS RELEASE FROM FRANK CHURCH

WASHINGTON, May 1, 1970.—Senator Frank Church has co-sponsored a Senate concurrent resolution designating today—May 1—as a day for an appeal for international justice for American prisoners of war and servicemen missing in action in Southeast Asia.

Church noted that American prisoners of war or those missing in action now number 1,500, including several from Idaho.

In remarks prepared for delivery in the Senate, Church said that "The treatment of American POW's in Southeast Asia has been a concern of mine for many years." The Idaho Senator noted that in 1966, he drafted a statement—in which he was joined by

many other Senators—which warned the Hanoi government against treating American prisoners as war criminals. As a result, Hanoi dropped its criminal charges against captured American pilots.

More recently, Church co-sponsored and helped move through the Foreign Relations Committee a Senate resolution calling on the United Nations to intervene on behalf of American prisoners to insure that the Geneva Convention covering treatment of POW's is obeyed and that prisoners received humane treatment.

"I hope," Church said, "that this latest Congressional resolution will focus additional attention upon the situation of American POW's and help to assure both humane treatment for them and speed the day of their safe return home."

Mr. CHURCH. Mr. President, again last year, in October of 1969, I issued another public statement calling the treatment accorded American prisoners of war by North Vietnam "indefensible." I described it as still another barrier to a successful settlement of the war. I said at that time:

As a Senator who has long objected to our involvement in Vietnam, I call on the North Vietnamese and the National Liberation Front to observe the canons of morality and international law.

I said further that:

No legalisms can absolve any government of its obligation to accord humane treatment to prisoners of war.

And I noted that the cruelty of the North Vietnamese policy:

Is felt most deeply by the prisoners' wives and families. For many, the pain of separation is worsened by the terrible uncertainty about whether their loved ones are alive.

I concluded with:

The obstinacy of the government of North Vietnam and the NLF increases bitterness and suspicion, and raises still another barrier to a successful settlement of the war. Without producing any military or diplomatic advantage, it multiplies grievances, spreads distrust and has much the same effect on progress toward peace as escalation on the battlefield.

Mr. President, I ask unanimous consent that the full statement, issued on October 1, 1969, appear in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEWS RELEASE FROM FRANK CHURCH

WASHINGTON, October 1, 1969.—Senator Frank Church said today that the treatment accorded American prisoners of war by North Vietnam is "indefensible" and still another barrier to "a successful settlement of the war."

In remarks prepared for delivery in the Senate, the Idaho Senator said it is time "for Hanoi to recognize that its treatment of prisoners of war is morally repulsive to people of all shades of opinion in the United States and the world."

"As a Senator who has long objected to our involvement in Vietnam, I call on the North Vietnamese and the National Liberation Front to observe the canons of morality and international law."

Hanoi and the NLF, Church said, "should identify the prisoners of war, allow the free flow of mail, permit inspection of the detention facilities by the International Red Cross, and give real evidence that the captives are receiving adequate care. In the name of our common humanity, they should do so now."

At the same time, Church reiterated his

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support for a pending Senate resolution urging the United Nations to act on behalf of American prisoners.

Noting the continued refusal of Hanoi and the NLF to abide by the Geneva Conventions of 1949 concerning treatment of prisoners, Church said that "No legalisms can absolve any government of its obligation to accord humane treatment to prisoners of war."

The cruelty of the North Vietnamese policy, the Idaho Democrat continued, "is felt most deeply by the prisoners' wives and families. For many, the pain of separation is worsened by the terrible uncertainty about whether their loved ones are alive."

And, Church said, "The obstinacy of the government of North Vietnam and the NLF increases bitterness and suspicion, and raises still another barrier to a successful settlement of the war. Without producing any military or diplomatic advantage, it multiplies grievances, spreads distrust and has much the same effect on progress toward peace as escalation on the battlefield."

In 1966, in an effort led by Church, several Senate opponents of the war in Vietnam warned the North Vietnamese against going ahead with their threat to execute captured American flyers as war criminals. A few days later, Hanoi dropped its plan for the war criminal trials.

Mr. CHURCH. So, Mr. President, I would hope that no one is led to conclude that those of us who oppose this amendment have any less feeling for the plight of American prisoners of war than those who vote for the amendment.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. CHURCH. I yield.

Mr. DOLE. I just want to underscore the Senator's last statement. Certainly, as I tried to make it clear, I applaud those efforts of the distinguished Senator from Idaho and others who have spoken on the floor today. I do not question the motives of anyone. I do not question anyone's patriotism. I do not agree with the Senator from Idaho's assessment of this amendment but certainly do not intend to make an issue of anyone's patriotism, whether he opposes or supports the amendment offered by the Senator from Kansas. I believe it is an appropriate amendment and will speak to that later this afternoon. I have high regard for the Senator from Idaho and recognize his long and continuing interest, not only in opposition to the war, but in the status of American prisoners of war and those missing in action in Southeast Asia.

I hope the Senate will deal with the amendment, on its merits and not by way of some parliamentary procedure to table it. At least we should have a vote on the merits of the amendment.

Mr. CHURCH. I thank the Senator for his personal references.

I yield now to the Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, a great deal has been said and done in recent years regarding the young Americans being held as prisoners of war by the North Vietnamese and the Vietcong. Our own Government and others, private groups and individuals, Members of Congress, and the relatives of the prisoners themselves, have gone to extraordinary lengths and pursued every channel in the hope of at least finding out the names of the prisoners held.

My personal efforts in this regard go back to the fall of 1965, and have continued until the present time. In addition to a number of visits to the International Committee of the Red Cross in Geneva, and conversations with representatives of various governments and the United Nations, on three separate occasions, I have addressed letters to the President of North Vietnam. My primary concern was merely information on the identity and condition of the prisoners, and arrangements for the free flow of mail between these men and their families in the United States. The first letter, sent in 1966, was never answered. The second letter, sent in 1967, was acknowledged through an aide to the President of North Vietnam. The third letter, sent last year, was answered by President Ho Chi Minh's successor, Ton Duc Thang.

The negative response to my personal efforts are a matter of record—so I share the deep frustration of all Americans, on the lack of any meaningful progress relating to the prisoners of war issue.

Our duty to these men, of course, and to their families, is basically humanitarian. And I strongly feel, that if we are to successfully obtain humane and fair treatment for them, we must stop tying their rights to unrelated political controversies, both foreign and domestic. We must stop exploiting their helpless plight to beat the war drums in Southeast Asia. We must stop using them as pawns in the Paris talks, thereby evading the real issues involved in reaching a political settlement—a negotiated settlement—that will end the violence and war in Indochina.

It is this increasing politicization of the prisoners of war issue that concerns me today. And so I say, as I have said in this Chamber before, let us remove the political pressures from the prisoner issue. Let us give credibility to our legitimate humanitarian concerns. Let us stop the shouting and denunciations, and begin the quiet, private international initiatives necessary, I feel, to accomplish the objectives all of us seek.

A few months ago—in February—the American National Red Cross began such an effort. Chairman E. Roland Harriman wrote letters appealing for the help of Red Cross societies throughout the world. On April 9 I reported to Senators some progress on responses to his letters. Today I can report additional progress, but I also want to urge those National Red Cross societies that have not responded positively to do so now.

It is my understanding that at least 45 of the societies have communicated with Mr. Harriman. At least 30 of these have responded positively. Only three societies have been negative so far—those in the Soviet Union, Mainland China, and East Germany.

I would certainly hope and urge that other societies—the Red Cross being perhaps the most universal of humanitarian agencies—would respond positively to the pleas for help from their counterpart in their country, and in turn work together to generate some program on an issue of vital concern to the American people and humanitarians throughout the world.

It is my hope that other American voluntary organizations, with essentially humanitarian concerns, will support and join this effort of the Red Cross. I appeal to these other organizations—in the religious community and elsewhere—to encourage their counterparts and related agencies overseas, to raise the prisoners of war issue in other countries.

The fact remains, Mr. President, that there are a number of international agencies which have shown themselves to be interested in humanitarian efforts and concerns involving disadvantaged peoples—in Nigeria and elsewhere. Some are concerned with such things as the past massacres in Indonesia or political prisoners in Brazil, for example. I do not feel that these organizations have been sufficiently activated to this issue of prisoners of war, and I would certainly be hopeful that all the information that we have, that is available to the Government, could be presented to these groups, religious groups and others, and that we could actively implore the use of their good offices in trying to reach a solution to this very compelling humanitarian issue of the American prisoners in North Vietnam.

Perhaps such an internationalization of the prisoners of war issue, within the humanitarian context of these private organizations, will persuade Hanoi that even modest steps to ease the anguish felt in the hearts of so many Americans would be gratefully welcomed by people throughout the world as a measure of respect for the dignity of man and a meaningful contribution toward peace.

Mr. President, I want to commend the distinguished floor leader, the Senator from Idaho (Mr. Church), the distinguished Senator from Indiana (Mr. Bayh) and a number of others for their statements this afternoon. I think they have reflected, as shown by their past efforts, a very true, deep, and passionate concern for the welfare and the well-being of these prisoners.

I think all of us feel the sense of frustration from the fact that even efforts made by well-intentioned people have failed to bring about the kind of solution to this problem which all of us in this body would like to see achieved.

The prisoner of war issue, in its real humanitarian aspects, has to be brought home even further throughout the world community. I think we have to be unrelenting in our efforts to achieve the aims which all of us would like to achieve. I think we can see that in the very recent months, there have been some very slight rays of light occasioned by the exchange of some mail and packages. Certainly this is not the whole story, but there have been certain kinds of indications which are a good deal more hopeful than we ever expected in the past.

So I would hope that if we can get international humanitarian agencies to make the necessary effort, we will have at least provided some additional and meaningful channels to meet what I know concerns every Member of this body.

I thank the Senator for yielding.

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Mr. CHURCH. Mr. President, I express my gratitude to the Senator for the persuasive argument he has made.

I yield now to the Senator from New Jersey (Mr. CASE).

Mr. CASE. Mr. President, I thank my colleague for yielding. I asked him to do so only for the purpose of adding a little cumulative weight to what has been said already.

Those of us who do not believe that the pending amendment is the best way to proceed in the matter of helping prisoners of war are very much concerned that our opposition to it should not in any way be misunderstood. As the Senator from Idaho and other colleagues who have just spoken have clearly indicated, our concern for these men—and women, if there be any—who are in the hands of the enemy is in no way diminished by the action that we expect to take in regard to this amendment, and we do not want anyone to misunderstand this. We shall continue as strongly as we can in all the various ways that have been pursued, and in others, too, if they can be found, to ameliorate this situation and to bring, if it is possible in any way to do it, the force of world opinion to bear upon the North Vietnamese and upon the people who are holding Americans as prisoners of war in circumstances that are not tolerable.

I commend my colleague for having raised this issue, and other Senators as well.

Mr. PELL. Mr. President, I rise to say a word in support of the Senator from Idaho and other Senators who would not want what we say here to be construed as a message to Hanoi that we in any way sympathize with or excuse or condone their obnoxious treatment of our men who are prisoners of war.

I am reminded of World War II, when the Germans had two kinds of prisoners of war—those from nations that had signed the Geneva convention and those from nations that had not. The prisoners from nations that had not signed the convention were treated as nonprisoners and were treated very badly. I am thinking specifically of the Russians who were German prisoners of war. But even in that case, their treatment was better than the treatment that is accorded the prisoners of war held by North Vietnam. In World War II, the prisoners were not called criminals, they were not brutalized, and they were not brainwashed.

I think it is very important for Hanoi to recognize that those who oppose the war find far more obnoxious, from an individual viewpoint the treatment the North Vietnamese are according to American men held as prisoners of war.

I commend the Senator from Idaho for his statement.

Mr. CHURCH. Mr. President, no one abhors war more deeply than the Quakers. Those who devoutly believe in the Quaker faith must feel deep compassion toward American prisoners of war, and the condition in which they now find themselves.

I received today a letter from Mr. Edward F. Snyder, of the Friends Committee on National Legislation. It is an eloquent statement in opposition to the

enactment of the amendment offered by the Senator from Kansas. The letter points out how the adoption of this amendment could not possibly help our prisoners of war, indeed it might have the opposite effect.

Mr. Snyder concludes his letter with this statement:

If we are truly concerned for the welfare of prisoners of war in Vietnam, Cambodia and Laos, it seems to me the best way to secure their release is in the context of a general agreement to end the war in Indochina.

I ask unanimous consent that the full text of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FRIENDS COMMITTEE ON NATIONAL LEGISLATION.

Washington, D.C. June 2, 1970

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: During the early months of 1968 as Quaker International Affairs Representative in Southeast Asia I had occasion to talk with representatives of the DRVN and the National Liberation Front about the question of prisoner release. This was done in the context of seeking the release of one of our Quaker doctors taken prisoner at Hue during the Tet Offensive and of her friend who worked with International Volunteer Services. We also urged the release of other civilians and government personnel.

In the course of these conversations I had the opportunity to form some opinion regarding the possibilities for releasing such prisoners and the conditions under which a general release might occur.

Having had personal friends who were or are now thought to be prisoners, I can sympathize deeply with the desire of those who seek to obtain their release. It does seem to me, however, that proposals such as those offered by Senator Dole of Kansas will be completely ineffectual in achieving that goal.

Two references arise from Senator Dole's proposal that the Church-Cooper Amendment "... shall be inoperative during any period that the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front."

One inference is that there is an implied threat to continue or escalate the military action in Cambodia if the North Vietnamese or the forces of the National Liberation Front hold U.S. prisoners of war there. Threats or the actuality of much stronger action such as massive bombing of North Vietnam have had no such effect and it seems practically inconceivable that the threat that U.S. troops will remain in or return to Cambodia will persuade them to release prisoners.

There is also an implication which may be unintended that, by leaving the way open for U.S. forces to remain in or return to Cambodia, some sort of armed column rescue operation might be carried out. Even if it were possible to locate the place where prisoners were being held in Cambodia, the risk to the lives and safety of the prisoners themselves in the course of such an operation would be, in my opinion, so great that this course of action is extremely difficult to justify.

The only real hope for securing a general release of prisoners lies in achievement of a final settlement such as occurred in the Geneva Accords of 1954. As you recall, Article 21 of the Agreement on the Cessation of

Hostilities in Vietnam of July 20, 1954, states:

"The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

"(a) All prisoners of war and civilian internees of Viet-Nam, French and other nationalities captured since the beginning of hostilities in Viet-Nam during military operations or in any other circumstances of war and in any part of the territory of Viet-Nam shall be liberated within a period of thirty (30) days after the date when the cease-fire becomes effective in each theatre.

"(b) The term 'civilian internees' is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities.

"(c) All prisoners of war and civilian internees held by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to their country of origin, place of habitual residence or the zone of their choice."

If we are truly concerned for the welfare of prisoners of war in Vietnam, Cambodia and Laos, it seems to me the best way to secure their release is in the context of a general agreement to end the war in Indochina.

Sincerely yours,

EDWARD F. SNYDER.

Mr. CHURCH. I yield now to the distinguished Senator from Indiana.

Mr. BAYH. I thank the Senator from Idaho.

In talking with a number of citizens of this country and other countries who have been in direct communication with the North Vietnamese, it appears that it is difficult for the North Vietnamese leaders to understand our system of government.

The Senator from Indiana wonders whether there is anything we can do, other than this type of colloquy, to try to drive this message home: that in our system it is entirely possible for the Senator from Indiana and the Senator from Idaho and some of the rest of us to disagree with vigor, but with respect, as to the proposition of our friend and colleague the Senator from Kansas, and yet, with equal fervor, to agree on a somewhat related point such as the prisoners of war.

The Senator from Idaho asked a moment ago whether there was anything else we could do. The Senator from Indiana is at a loss to suggest anything that can guarantee the return of our men.

It has been suggested by some that perhaps something dramatic might be done, a joint session of Congress, for example, for the purpose of dealing with the problems of prisoners of war. The Senator from Indiana feels that perhaps this should be explored with the Presiding Officer, the Vice President, or with the officials of the other body.

I ask the Senator from Idaho and the Senator from Kansas whether a message I just have penned might profitably be sent to the premier of the Democratic Republic of Vietnam, the North Vietnamese, to which we would try to get the

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signatures of all Members of the Senate, indicating that we are deeply concerned. I am not wed to this language, and I am not certain it will do anything, but anything we can do to get the North Vietnamese to better understand the deep concern that the people of this country have, and that we as their representatives have, might be of some assistance. It could read as follows:

We the undersigned members of the United States Senate feel compelled to personally express our sense of outrage at the continuing inhumane treatment of United States prisoners of war held captive by the government of North Vietnam and National Liberation Front.

As a signatory to the Geneva Prisoner of War Convention of 1949—

Which I understand North Vietnam signed in 1957.

North Vietnam is bound to identify the persons held prisoner, release those who are ill or wounded, permit the regular flow of mail to and from the prisoners, and permit inspection of the prisoner of war facilities. In blatant disregard of these basic humanitarian requirements, the government of North Vietnam continually has refused to adhere to the terms of the Geneva Convention.

While we are not of one mind on the past and present policies of our government in Southeast Asia, we think it is important for North Vietnam to know that we are of one mind in insisting on the immediate release and proper treatment of our prisoners.

I suggest that we might pursue this. I further suggest to the Senator from Kansas that together—all of us on both sides of this issue—that this would be a telling point. If a message such as this, which could be drafted jointly by us, could arrive in North Vietnam with the signatures of 100 Senators affixed to it, it might have an impact.

It would seem to me that this would at least show a unanimity of purpose in this country relative to what is happening to our young men.

Mr. CHURCH. I would be proud to add my name to such a message. The unanimous endorsement of the Senate of such a message, conveyed to the Government of North Vietnam, could very possibly have a helpful effect.

I want to do anything I can that has some chance of being effective in helping our prisoners of war who are now held principally in North Vietnam—not Cambodia.

As the Senator himself has so well said earlier in this debate, the pending amendment offered by the Senator from Kansas cannot possibly be effective in helping American prisoners of war. By retaining American forces in Cambodia beyond the date the President himself has set for their withdrawal, our POW's in Indochina are not helped at all.

One cannot believe, even if the Dole amendment were adopted, that the President would ever invoke it.

I thus commend the Senator for his suggestion. I want to do something that could help. Yet, we must not raise false expectations, which would be the case if we adopted an amendment of the character offered.

Mr. BAYH. It seems to me—I see our distinguished colleague from Kansas ris-

ing so I shall be brief—that one thing that certainly could do no harm and might, as the Senator from Idaho has suggested, drive home the point that we are united on the issue of the humane treatment of U.S. prisoners, is a telegram from the 100 Members of the Senate.

I appreciate the Senator's yielding to me.

Mr. CHURCH. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, let me say, first of all, in response to the suggestion of the Senator from Indiana, it is a good one. Certainly, I would be pleased to participate.

With reference to the debate this afternoon, if nothing else, my amendment has been successful, in that it has at least spurred some debate.

I do not impugn the motives of anyone but, to the contrary, applaud the statements made. I recognize the interest of many Senators in American prisoners of war and those missing in action extending back before I became a Member of this body.

Thus, to my friends who have risen to express their views, perhaps this activity in itself will be meaningful to the wives and children and mothers of Americans missing in action and our prisoners of war in Southeast Asia.

I have been told many times by the wives and parents of Americans missing in action, and prisoners of war, that any interest expressed on the Senate floor or on the floor of the House, or by the President is meaningful, because it may result in some way in better treatment for their husbands and sons.

Thus, I would hope that the debate today will have that meaning, notwithstanding the fate of my amendment, which will be voted on tomorrow at 11:30 a.m.

I would say to my friends from Idaho and Indiana that tomorrow, rather than moving to table the amendment, that we should have a vote on its merits.

I happen to believe this is one way we can express ourselves. I happen to believe that this is a responsible amendment. I do not consider it a travesty, as has been suggested by the Senator from Idaho. It says merely that—

(b) The provisions of subsection (a) of this section shall be inoperative during any period that the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front.

All it says, in effect, is, if the President determines there are prisoners there, American citizens, or American nationals, that the sections are inoperative and American troops could go into Cambodia without the President first consulting or obtaining the consent of Congress.

Mr. CHURCH. Can the Senator from Kansas tell us how many prisoners of war there are in Cambodia?

Mr. DOLE. Not precisely. I think there are reports of 20 or more.

Mr. CHURCH. Can the Senator tell us how many prisoners of war there are in North Vietnam?

Mr. DOLE. Again, not precisely. I think

perhaps as many as 400—known prisoners.

Mr. CHURCH. Then why does not the Senator extend the amendment to cover North Vietnam and provide that there shall be no withdrawal of troops from South Vietnam as long as there are prisoners of war in North Vietnam?

Mr. DOLE. I would be very happy to add North Vietnam, Laos, and Thailand, but would not add the last section. I believe the President would exercise the right of rescue, notwithstanding the amendment, as has been expressed by the Senator from Idaho and many others. That is why I feel this amendment would be a positive step by the Senate, that the President should have that right. It underscores what has been said by every Senator speaking today, that we are concerned about our prisoners of war and those missing in action.

Why do we not say so in so many words? I would be very happy to accept the amendment, to include Laos, Thailand, and North Vietnam.

Mr. CHURCH. Last December, the Senator supported an amendment here that prohibited the introduction of American ground forces into Laos. At that time he did not raise any question concerning American prisoners of war held in Laos. Is that not true?

Mr. DOLE. That is true. It was a mistake, but I did not raise that question at that time.

Mr. CHURCH. Is not the principle involved in this amendment, as it applies to Cambodia, equally applicable to Laos and North Vietnam?

Mr. DOLE. There is no question about it. In fact, there are other amendments pending. They will all be offered in due course, some much broader than mine. I restricted mine to Cambodia because the Church-Cooper resolution was restricted to Cambodia. There are some 16 or 17 amendments pending. This is only the beginning. There will be others following this one. The Senator from Arizona (Mr. GOLDWATER) has an amendment which deals with prisoners of war in the entire area of Southeast Asia. I confess that I voted last December 15 for the Laos-Thailand amendment and perhaps at that time there should have been some recognition, that the President had that power in any event. Again, as has been stated by the Senator from Idaho, I feel the President has that right and he has that power. Thus, I hope the Senator from Idaho might agree to some language in the Church-Cooper resolution itself.

Mr. CHURCH. Whatever constitutional power the President has, irrespective of what language we put in the Cooper-Church amendment, he will retain.

Mr. President, I have here a tabulation from the Department of Defense on the prisoner of war situation as of May 26, 1970. I call it to the Senator's attention because it is highly pertinent to his amendment.

This compilation shows that of those Americans missing in action, 481 are listed as missing in action in South Vietnam, 405 are listed as missing in action in North Vietnam, 219 in Laos, none in

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Cambodia—for a subtotal of 1,105. Of those believed to be captured by the enemy, 75 are believed to be in South Vietnam, 375 are believed to be in North Vietnam, three are believed to be in Laos, and none are believed to be in Cambodia. The total, 1,558, is the latest compilation furnished us by the Department of Defense.

Mr. President, I ask unanimous consent that this compilation be printed in the RECORD.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

American servicemen missing in action or believed captured—Southeast Asia, as of May 26, 1970

1 Missing in action (location):	
a South Vietnam.....	481
b North Vietnam.....	405
c Laos.....	219
d Cambodia.....	---
Subtotal.....	1,105

2 Believed captured (location):	
a South Vietnam.....	75
b North Vietnam.....	375
c Laos.....	3
d Cambodia.....	---
Subtotal.....	453
Total.....	1,558

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GOLDWATER. Mr. President, there are 18 or 20 American newsmen missing in action. They could be assumed to be prisoners of war in Cambodia.

Mr. DOLE. Mr. President, at this point in the RECORD, I ask unanimous consent to have printed a number of telegrams from the wives and mothers of American prisoners of war and Americans missing in action with reference to the amendment I have offered, and with reference to the other amendments dealing with prisoners of war and Americans missing in action, and the so-called Cooper-Church amendment.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

LEWISTON, IDAHO.
May 30, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: My son, Lt. Roderick Mayer, U.S.N., has been a prisoner of war in North Vietnam since Oct. 17, 1965.

If President Nixon withdraws our troops from Vietnam before Hanoi releases our men, I will never see my son again.

Please use your influence to convince the President that he must negotiate the release of our prisoners of war by North Vietnam and the Vietcong before he withdraws any more troops from Vietnam.

Sincerely,

Mrs. JOE MAYER.

FORT MADISON, IOWA.
June 1, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

We urge support of prisoner of war amendment to bill 609.

Mr. and Mrs. DARWIN CUTHBERT.

SEATTLE, WASH.
May 30, 1970

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

We strongly commend and support your proposed POW amendment to the Church-Cooper bill.

Mr. and Mrs. R. W. BALCOM.

SPOKANE, WASH..
May 30, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

Mrs. Jeanette Shively, Mrs. Faye Schlerman, and Mrs. Marie Bossio from Spokane, Wash., left this morning for Europe to seek information of their loved ones who are MIA POW. They join with me in gratitude for your constant concern of our POWs and in commending you on the recent amendment to the POW resolution.

Sincerely,

JOAN VISSOTZKY.

PUYALLUP, WASH..
May 30, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

I commend you on your POW amendment to Church-Cooper bill. Now is the time for expanding war legislation to include the prisoners and missing held by North Vietnam, Laos, and the National Liberation Front. We must be sure money and troops are not withdrawn before satisfactory negotiations of the prisoner question. We cannot abandon the 1,500 in Southeast Asia as we did the 389 in Korea.

Best personal wishes.

Mrs. ROBERT HAGERMAN,
Washington Families Prisoners of War.

WALLA WALLA, WASH..
May 30, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: We the parents of a son who is missing in action in Southeast Asia want to commend you on your amendment of the return of Americans including all prisoners of war in Southeast Asia. Your efforts are greatly appreciated.

Sincerely yours,

FLORENCE M. KLEINKNECHT

TACOMA, WASH.
May 30, 1970

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

I commend you for your amendment to the Church-Cooper bill with consideration for the prisoners and missing in action. The families and loved ones of these men support you in your endeavor to show concern and are placing our confidence in you that the men in Cambodia and also those held as prisoners and missing in action category in the other areas of Southeast Asia shall not be forgotten in haste to withdraw funds and troops before these brave captives are returned home and a just peace is realized.

JOYCE KNISLEY.

LAGUNA BEACH, CALIF.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

I support you in your amendment to the Church-Cooper bill which would prohibit the cutting off of funds to Cambodia until our prisoners of war are released.

Mrs. LILLIAN N. SMITH.

LAGUNA BEACH, CALIF.,
June 1, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

You have of full support on your amendment to the Church-Cooper bill.

MARY A. WATERS.

ST. LOUIS, MO..
May 30, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

We back your move to reenter Cambodia if necessary to release American prisoners. Mr. and Mrs. RICHARD VASEL.

OAK HARBOR, WASH..
May 29, 1970.

Senator BOB DOLE,
Washington, D.C.:

Strongly support your stand for prisoner release on Cambodian bill. Vtally concerned citizen

ALICE L. KANE.

OLYMPIA, WASH..
May 29, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

I commend and support your efforts on the POW's amendment to the Church-Cooper bill. We must not withdraw from Cambodia for it may mean leaving prisoners of war behind. I am one of many heart broken loved ones of those missing in action and our prayer is that men like you help for the return of all prisoner of war men all over in Southeast Asia. Thank you again for your every effort to help and our prayers are with you.

Mrs. PAUL L. VRAFFEE.

MERCER ISLAND, WASH..
May 29, 1970.

Senator DOLE,
Washington, D.C.:

Commend and support your efforts. Behalf of prisoner of war amendment to Church-Cooper bill

MELITTA JOHNSON.

SEATTLE, WASH..
May 29, 1970.

Senator DOLE,
Senate Building,
Washington, D.C.:

We are for our President and concur in his Cambodia action please support amendment to Church-Cooper bill our prisoners of war and missing in action must not be left behind and uncared.

Mr. and Mrs. GEORGE A. JENSEN.

OAK HARBOR, WASH..
May 29, 1970.

Senator BOB DOLE,
Washington, D.C.:

Strongly support your stand for prisoner release on Cambodian bill.

GAIL ORELL.

LAGUNA BEACH, CALIF..
May 31, 1970.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

I support you in your amendment to the Church-Cooper bill which would prohibit the cutting off of funds to Cambodia until our prisoners of war are released.

Mrs. LILLIAN N. SMITH,
PIQUA, OHIO.

June 1, 1970.

Senator ROBERT DOLE,
Washington, D.C.:

We support the POW amendment.

MARY BAUGH.

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LAGUNA BEACH, CALIF.,
June 1, 1970.Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:

You have our full support on your amendment to the Church-Cooper bill.

VIRGINIA DAILEY.

OAK HARBOR, WASH.,
May 30, 1970.Senator ROBERT DOLE,
Washington, D.C.:

As the wife of a navy lieutenant who is missing in action in Vietnam I heartily support your amendment to the Cambodian bill. I'm glad we have one very concerned Senator in Washington.

MRS. BARBARA HUNT.

OAK HARBOR, WASH.

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.:

I am the wife of Cdr. W. P. Yarbrough, Mia, North Vietnam, January 1, 1967. Before Congress considers the people who scream what can the United States do for them consider the people who said what can we do for the United States, the men who are missing in action and prisoners of war in Southeast Asia. The first have the voting power but the second have the courage. Stop the Cooper-Church bill from passage by the Senate. First make North Vietnam return all missing in action and prisoners of war.

BETTY E. YARBROUGH.

CHICAGO, ILL.,
June 1, 1970.Senator ROBERT DOLE,
Washington, D.C.:

We support Robert J. Dole, Republican from Kansas, amendment for the POW.

MR. and MRS. GEORGE STARK.

PIQUA, OHIO,
June 2, 1970.Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.:I support Senator Dole POW amendment.
MR. and MRS. EARL BAUGH.

Mr. DOLE. Mr. President, at the hour of 11:30 tomorrow morning, there will be a vote, hopefully, on the merits of the amendment I have offered, to page 5, lines 18 and 19 of the Military Sales Act.

I have no control over what motion might be offered ahead of any vote on the merits, but would assume and presume that there will be a motion to table. But I hope in view of the thoughts expressed by a number of distinguished Senators this afternoon that we will vote on the merits of the amendment and that the amendment will be adopted.

It is not very complicated. It is rather simple. It merely says that if the President determines that Americans are captives of the enemy in Cambodia, the provisions of the Cooper-Church amendment shall be inoperative.

The Senator from Idaho said and almost every other Senator believes, that the President has this right and power to effect the rescue of prisoners under the Constitution in any event, although it is not delineated clearly in the Constitution.

Some raise doubts about the powers that the President has under the Constitution. That is the sole and only purpose of offering the amendment, to make it crystal clear that if the President should determine that citizens or na-

tionals are held prisoners of war in Cambodia, the so-called Cooper-Church amendment would not be operative.

As the Senate has proceeded in its consideration of the Cooper-Church amendment, initial doubts held by many as to its timeliness and propriety have been confirmed, and other weaknesses have been disclosed.

The first flaw which was noted, and one which has remained unrepaired, is the amendment's imposition of legislative initiative in a situation where the President has taken action and is pursuing a well-defined and delimited objective, this legislative action is no less than an attempt to second-guess the President in his conduct of the Cambodian operations. Furthermore, despite assertions to the contrary, this legislative action amounts to a declaration of lack of confidence in the President's ability or intention to fulfill his timetable for termination of the Cambodian operations.

Although the amendment has been modified to take effect after the President's deadline for withdrawal of U.S. forces and to express the intent of acting in concert with the President's objectives, the underlying implications of the amendment have not been altered to any meaningful extent.

Another objectionable aspect of the Cooper-Church amendment, aside from the present considerations of Cambodia, is the actual or apparent limitation which would be placed on the President's Commander in Chief powers. As a matter of constitutional law and realistic understanding, the Congress cannot place limitations on any of the President's exclusive powers. However, in world politics, just as in the domestic variety, appearances, and impressions are often of equal importance with actuality. While we in the Senate and the American public would likely understand the boundaries of any legislative expressions in this field, we could not count on similar understanding by peoples of other countries, friends and enemies alike. If it were believed—falsely or not—that the President, in the conduct of this Nation's foreign policy and in the command of our troops throughout the world, was operating under legislatively directed limitations on his exclusive powers, the ramifications would be profound.

Our capacity and dedication to meeting our treaty and mutual security obligations would be subjected to considerable question. If the Congress were believed to have restricted the President in Cambodia what would allay suspicions that limits might not be imposed in situations which might arise in Korea, in Europe, or in Israel?

Our treaty partners throughout the world would be forced to reevaluate their positions within our alliances. If they could no longer place their firm reliance in our resolve to meet the spirit as well as the letter of these obligations, they could be expected to take fundamentally different views of their roles in world affairs. In pursuit of their own self-interest, they would have to seek accommodations with other powers and inter-

ests—perhaps against the wishes and positions of the United States.

Even those nations who are not bound to us by treaties would have to study their positions in the light of an apparently fettered U.S. President and restricted U.S. capacity to influence world events, and honor commitments.

Our enemies, too, would be given cause to consider what new ventures and policies they might undertake believing U.S. response to be encumbered by legislative directives.

As I said, Mr. President, in reality, the President's and the country's ability and intention to wield power and fulfill obligations would not be impaired by the Cooper-Church amendment. But if our friends, our enemies, and noncommitted peoples believed otherwise, the reality would be irrelevant.

Another objectionable aspect of any attempt to restrict the President's Commander in Chief authority has to do with the men he commands. As Commander in Chief the President has the immense burden and responsibility of protecting his troops to the utmost of his abilities. He is, of course, required to order them into hazardous duty. But to the maximum extent possible, he is charged with insuring their safety—and the safety of all Americans.

Mr. President, as I have done so many times before, let me indicate, underscore, and emphasize that President Nixon has kept his word to the American people. President Nixon has kept faith in the American people. President Nixon has reduced the troop level in South Vietnam by 115,500.

Every withdrawal announced by President Nixon has been on schedule or ahead of schedule. He has also announced the withdrawal of another 150,000 troops to be completed by next spring.

As I have stated before, I do not question the motives of the sponsors of the Cooper-Church amendment, but I question the timing of it.

Had President Nixon announced he would withdraw troops and then not followed through, we would have had occasion to question his credibility and integrity.

President Nixon has stated time and time again that all American troops would be withdrawn from Cambodia by June 30. I have faith in President Nixon. I believe President Nixon when he says the troops will be withdrawn from Cambodia on or before June 30.

I believe President Nixon when he says 150,000 additional American troops will be withdrawn by next May 1 or before.

I believe President Nixon when he says that the incursion into Cambodia was necessary for two purposes and two purposes only—first, to protect our American forces remaining in South Vietnam and, second, to keep our Vietnamization program on schedule or perhaps even ahead of schedule.

Mr. President, we are faced tomorrow with the initial vote, not a test vote by any means, but the initial vote on a series of amendments, many of which would improve the so-called Cooper-Church amendment.

Let me emphasize again that my

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amendment is not intended to gut the Cooper-Church amendment. My amendment is not intended to delay consideration of the Cooper-Church amendment.

My amendment is intended to protect the lives of Americans who may be captives or prisoners of war in Cambodia.

I suggest to my friends who spoke today of their concern, and I have no doubt that their concern is real and sincere, that another way to express their concern is to vote for the amendment and against any motion to table.

This would be meaningful. It would be a signal to Hanoi and to the National Liberation Front that Americans do care, that Americans will not take these rights away from our President to protect the American prisoners.

It would be a signal of hope to American wives and mothers who have husbands and sons who are now prisoners of war in North and South Vietnam, Laos, and Cambodia.

Mr. President, I conclude by requesting that those who have spoken today in opposition to the amendment read it carefully, read it in its entirety. Read it as an effort to strengthen the Cooper-Church amendment, read it as an effort to strengthen the hand of the President, read it as an effort to give hope to those Americans who may be prisoners of war or who may be Americans missing in action anywhere in Southeast Asia.

Mr. President, I share the view expressed by the Senator from Idaho that perhaps the amendment should be broadened. Other amendments will be offered, one by the Senator from Arizona with reference to American prisoners of war and Americans missing in action in North Vietnam, South Vietnam, Laos, and other countries in Southeast Asia.

If we are truly concerned about American prisoners of war, wherever they may be in Southeast Asia, I know of no better way to express that concern than by voting for my amendment tomorrow.

Mr. GOLDWATER. Mr. President, in the past 10 days it has been my privilege to visit several widely separated sections of the country and to talk with the people in those areas. And during this time I made it a special point to ask for opinions on the Cambodian operation about which there has been so much discussion since the President moved to take forthright action to wipe out sanctuaries from which American fighting men were being attacked.

I have discovered, Mr. President, what I believe to be a rather interesting phenomenon. When I first began my questioning 10 days to 2 weeks ago, I encountered a large degree of confusion, a heavy percentage of doubt and a very, very large degree of total and almost complete misunderstanding of the problem and the geography of the part of the world with which we are so intimately and intricately concerned today.

During the latter part of my trip, however, I began to detect a change. I began to discover a new and better understanding of just what the situation is in the Far East. People seemed to be gaining a better grasp of just what it is that we are involved in in Vietnam and Cam-

bodia at the present time. By the same token, my mail is reflecting a similar change. Several weeks ago it was running about 5 to 2 in favor of the President's position. Now the ratio is more like 9 to 1 in the President's favor.

Mr. President, I believe that the people of this country are beginning to grasp the fact that they, at long last, have in the White House a President whose intentions and whose purpose is to bring the war in Southeast Asia to an honorable conclusion. I believe the people of this country are now beginning to understand that they finally have a President with the courage and the determination to overcome all obstacles and withstand all types of public criticism for the good of his country and for the good of peace. Heaven knows our President has been showered with plenty of abuse and criticism from all directions since his decision to move forthrightly in Cambodia and take advantage of a political situation in that country which could do nothing but help terminate the war in Southeast Asia and facilitate the withdrawal of more and more American troops.

Mr. President, it is my belief that we owe a debt of gratitude at this time to the advocates of peace, the so-called doves in our midst, who brought about this very, very vehement discussion of the situation in Southeast Asia. I believe that we owe them a debt of gratitude because without their criticism we could not have reached this point of understanding, generally speaking, with the American people. I do not believe that we could have, in so short a time, brought the people to a point where they more thoroughly and completely seem to understand just what it is we are attempting to do. I believe that many events have aided in this process. I believe that the "hard hat" demonstrations in New York were a large part of what went on. I believe these patriotic and determined men were able to open the people's eyes, figuratively and literally. I believe it amazed the American people over the length and breadth of this land to see and hear about 150,000 laboring men demonstrating in the streets of New York for a public position in support of their President. I believe it was a shock for many to find unionized working men out demonstrating for a Republican President on any issue. You will understand, I am sure, that for the past 30 years, Republicans were supposed to have been the enemy of all those people who worked with their hands.

This, of course, was a tallacy promulgated in the days of the depression and the days of F.D.R. and the days of the WPA and so forth. These were the days when it was popular to downgrade and to cast reflections on anybody and anything that stood forthrightly for the free enterprise system, who believed capitalism could still work, or who felt patriotism was not beneath them. These were the days, of course, when we began formulating the permissiveness and the intellectual approach to foreign affairs which has encouraged some people to believe that they themselves, if possessed of a college degree or several college de-

grees, could formulate foreign policy much better than anybody elected to do that job or anyone appointed and trained to do that job for the Government of the United States.

Now, Mr. President, today we find ourselves in a situation where a full-blown war exists in Southeast Asia and the United States of America is deeply involved. And I might add, again, we are involved through no fault of any Republican President. But we are involved and we are involved deeply and tragically. The problem is to become uninvolved in a way which will serve freedom best. I believe the President of the United States is doing this. I believe he is making progress at this, and I believe the war in Southeast Asia shows more signs of progress toward a successful conclusion, as far as we are concerned, than ever before. But at this very time, Mr. President, we find the Senate of the United States engaged in a heated, even a bitter, controversy and debate over whether or not we should pass legislation to restrict the President's actions in the field of foreign affairs; whether we should take action, legislative action, that is, to actually usurp Presidential and executive powers in this field because some people in the Senate of the United States disagree with the way the President is handling things.

Now, I am not a lawyer and I am not an expert on the Constitution. However, I do revere that document and have spent considerable time as a layman studying it and trying to make myself familiar with its various provisions. In that document the Congress of the United States is entrusted with the authority to declare war. Now, we seem here today to be trying to clarify, if you will, in a legislative fashion, just where congressional powers begin and leave off and where executive powers begin and leave off in the field of foreign relations generally. This whole area has been described by experts as a "twilight zone" in a legal sense; as a zone which is not carefully defined or exactly laid out.

I have an unhappy feeling when we approach this particular subject in anything but a constitutional sense. We keep hearing the charge that the President has usurped congressional war-making powers under the Constitution. We keep hearing the statement that this is an undeclared war. We keep hearing the charge that the President has overreached his power and that action by Congress is necessary to put the record straight.

Mr. President, let us assume for a moment that such is the case and that a clarification of the duties and responsibilities of the President under the Constitution for the conduct of foreign affairs is needed. Then I propose, Mr. President, that we forget this business of passing amendments and tacking things on to other bills and proceed in a forthright fashion. If people in this body believe that the President of the United States is acting in a questionable fashion, why do they not propose a constitutional amendment which will forever clarify where the powers of Congress begin and leave off and where the powers of the executive begin and leave off in this very,

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very important field—a field of vital concern to the very security and future of the United States as well as to the cause of freedom throughout the world? Why do we not have a constitutional amendment in this field, a constitutional amendment which can be submitted to the people of this country through their legislatures and assemblies?

As I said earlier, Mr. President, I get an unhappy feeling when I see us approaching legislatively the whole question of the conduct of foreign policy in an area where an actual state of a war exists. I get an unhappy feeling that we are here not only limiting or attempting to limit the power of the executive, but we are in effect announcing to the whole world that we question the wisdom of this policy and the course of action being followed by the United States of America.

Mr. President, I do not believe that this is the time or that it is ever the time when we are conducting armed conflict with an enemy to go about in a legislative fashion to question the actions of our President or the course of our Government. But for those who insist on some kind of action, I say to them the only kind of action which this body can take in the best interest of the American people and the American fighting men is an action which will have the effect of announcing to the world that we in the Senate of the United States and the Congress of the United States underwrite and support the Executive in everything he has done. This cannot be accomplished, I do believe, in the adoption of the Cooper-Church amendment. Nor do I believe it can be done through the more stringent McGovern-Hatfield amendment to end the war in Southeast Asia, or through any of the proposals to repeal the Gulf of Tonkin resolution.

No, Mr. President, I feel that only something that would underscore the President's action with approval and then try and accomplish some other objective connected with the war can perform properly the purpose which we have before us today. Therefore, I believe the amendment introduced by the gentleman from Kansas (Mr. Dole), to the effect that no limitation upon the President voted by this body or this Congress shall be operative during any period when the President determines that U.S. nationals or citizens are being held prisoners by the North Vietnamese or Vietcong forces in Cambodia.

Mr. President, in that respect I listened to the distinguished Senator from Idaho (Mr. Church) question the Senator from Kansas (Mr. Dole) as to why he did not include the North Vietnamese, the Vietcong, or Laotians. I was satisfied with the Senator's explanation that we are talking about only Cambodia at the present time; but at the proper time in the course of this debate I shall call up my amendment to H.R. 15628 which states in effect that—

The provisions of subsection (a) of this section shall become effective as soon as the President (1) obtains the release and safe return to the jurisdiction of the United States of every United States prisoner of war held by the North Vietnamese and the forces of the National Liberation Front, and (2) notifies the Congress that the provisions of

clause (1) of this subsection have been satisfied.

Getting back to my discussion of the question on Senator Dole's amendment, in this I believe we would, in effect, be telling the world that we would leave the area of Cambodia at a specific time provided we were assured that there were no American prisoners of war being left behind—and I include in those prisoners the 18 to 20 who, the morning papers told us, had disappeared in Cambodia.

This would have the effect, Mr. President, I believe, of hastening that time when we can get some kind of honest and humane action from our Communist enemy in Southeast Asia on the 1,500 American soldiers and fighting men who are held prisoners in that area of war, those prisoners about whom we can obtain no information on ways and means of obtaining their release and about whom we can get no details on their physical well-being, which are so important to their loved ones and parents and relatives.

Therefore, passage of the Dole amendment, it strikes me, would accomplish at least a step in the direction of impressing further upon our Communist enemy the fact that we hold the welfare of those 1,500 American prisoners as a very important factor in the conduct of the war. I believe, therefore, that the Dole amendment, if it were passed, could completely alter the appearance of action taken in this body as it relates to the President and his authority in the field of foreign affairs.

Now, I understand, Mr. President, that if this particular amendment, about which I feel very personally involved, should happen to fail, an amendment will be proposed by Senator BYRD, my esteemed colleague from West Virginia, which states that nothing in the Cooper-Church amendment shall preclude the President from taking any action that may be necessary to protect the lives of U.S. forces in South Vietnam or to hasten withdrawal of U.S. forces from South Vietnam.

While I would prefer the Dole amendment, I would not object to the Byrd amendment, Mr. President, because I believe that the Byrd amendment would be one way of saying we hope the President can obtain the withdrawal of all American troops on the June 30 deadline which he fixed himself, but that if he cannot do that he may take any action that may be necessary to protect the lives of U.S. forces in South Vietnam or any action he may see fit to hasten the withdrawal of U.S. forces from South Vietnam.

In effect, I say the Byrd amendment would nullify the Cooper-Church amendment, and that, to my way of thinking, would be all to the best. However, suppose that both of these amendments fail, Mr. President. Where does that leave us? That leaves us confronted with a legislative proposal which would limit the options of the President in a specific field of foreign relations; namely, Cambodia. This proposal does not serve the cause of freedom. On the contrary, I believe either adoption would be injurious to our national interest.

Now, I have discussed previously the

Gulf of Tonkin resolution, which I like to think of in my own mind as the Fulbright resolution, giving it the name of its author, giving it the name of the Honorable Chairman of the Senate Foreign Relations Committee who sponsored the resolution, who steered it through the Senate Foreign Relations Committee and who insisted in its adoption on the floor of the Senate at the behest of a Democratic President.

Mr. President, it has been said, and I am one of those who believe it could be the case, that the Gulf of Tonkin resolution was, in effect, a contingent declaration of war. What the Gulf of Tonkin resolution did was place the Congress of the United States on record as approving any steps the President felt necessary to take to protect American forces in Southeast Asia. This, in effect, handed the President all the powers that he needed to do whatever is necessary in the Indochina war. It certainly covers the action which has been taken with respect to Cambodia. Now, before we begin tampering too seriously with the President's powers in Southeast Asia, I believe that we ought to ask ourselves a number of important questions. The most important of these to my way of thinking is that: Given the seriousness of the Gulf of Tonkin resolution and given the authority which it contains for Presidential action, I believe it behooves us to ask, "Has the Congress of the United States ever repealed a declaration of war?" Now, while we are thinking that one over I have another question, Mr. President, and it is this. Has the Congress of the United States ever declared war without a recommendation from the Executive?

Any way you figure it, Mr. President, the man who is elected Commander in Chief of the Armed Forces of the United States must necessarily have the authority to act in such a situation, must have the authority to do things to protect the entire Nation as well as our fighting men without the necessity of going through the congressional process.

Mr. President, I may not be an expert in this particular field but I have an interesting and authoritative source of reference for my last statement. I am speaking of Chairman FULBRIGHT of the Senate Foreign Relations Committee, who claimed in an article in the Cornell Law Quarterly, fall, 1961, that "the source of an effective foreign policy under our system is Presidential power."

I believe it might serve us well to consider more fully the Foreign Relations chairman's attitude on this important question in 1961. I quote him directly:

The pre-eminence of Presidential leadership overrides the most logical and ingenious administrative and organizational schemes. The essence of our "policymaking machinery" and of the "decisionmaking process"—concepts of current vogue in the academic world—is the President himself who is neither a machine nor a process, but a living human being whose effectiveness is principally a function of our own knowledge, wisdom, vision, and authority. It is not within our powers to confer wisdom or perception on the Presidential person. It is within our power to grant or deny him authority. It is my contention that for the existing requirements of American foreign policy

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we have hobbled the President by too rigidly a grant of power . . .

Senator FULBRIGHT went on to explain that it is difficult, if not impossible, to devise policies oriented to a clear and definite conception of national interest "through a system in which power and responsibility for foreign policy are shared and overlapping."

Mr. FULBRIGHT continued:

Policies thus evolved are likely to be ill-coordinated, short-ranged, and often unsuccessful, while the responsibility for failure is placed squarely on the President, neither "shared" nor "overlapping."

Further on in this same article Chairman FULBRIGHT pointed out that while Congress has many powers under the Constitution having to do with foreign affairs, they do not enable the Congress to initiate or shape foreign policy.

And now, in conclusion, let me answer one of my earlier questions. While under the Constitution Congress alone has the power to declare war, it has never exercised this power except as a consequence of a President's acts or recommendations.

And, according to the Historical Studies Division of the Department of State, the President, historically and without the prior approval of Congress, has repeatedly utilized the Armed Forces of this country in response to an immediate military situation.

In fact if my memory is right, this country has had 137 military engagements which ranged from that to war, and we have had five declarations of war—The War of 1812, the Spanish American War, World War I, the declaration against Germany and another declaration against Japan in World War II.

As Commander in Chief, he has full control over the use of American Armed Forces, and he may on his own authority commit them to action beyond our borders to protect the national interests of this country. That at least is the way the State Department views the twilight zone in constitutional powers. I suggest that Members of Congress who want to alter that concept would do well to pursue their objective through an amendment to the Constitution. That is the proper way to proceed.

Mr. President, I yield the floor.

ESTABLISHMENT OF A NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Mr. YARBOROUGH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1519.

The PRESIDING OFFICER (Mr. BELLMON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1519) to establish a National Commission on Libraries and Information Science, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "National Commission on Libraries and Information Science Act."

Sec. 2. The Congress hereby affirms that library and information services adequate

to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

Sec. 3. There is hereby established as an independent agency within the executive branch, a National Commission on Libraries and Information Science (hereinafter referred to as the "Commission").

Sec. 4. The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

FUNCTIONS

Sec. 5. (a) The Commission shall have the primary responsibility for developing overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 2. In carrying out that responsibility, the Commission shall—

(1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;

(2) conduct studies, surveys, and analyses for the library and informational needs of the Nation, including the special library and informational needs of the economically, socially, or culturally deprived, and the means by which these needs may be met through information centers, through the libraries of elementary and secondary schools and institutions of higher education, and through public, research, special, and other types of libraries;

(3) appraise the adequacies and deficiencies of current library and information resources and evaluate the effectiveness of current library and information science programs;

(4) develop overall plans for meeting national library and informational needs and for the coordination of activities at the Federal, State, and local levels, taking into consideration all of the library and informational resources of the Nation to meet these needs;

(5) promote research and development activities which will extend and improve the Nation's library and information-handling capability as essential links in the national communications networks;

(6) submit to the President and the Congress (not later than January 1 of each year) a report on its activities during the preceding fiscal year; and

(7) make and publish such additional reports as it deems to be necessary, including, but not limited to, reports of consultants, transcripts of testimony, summary reports and reports of other Commission findings, studies, and recommendations.

(b) The Commission is authorized to contract with Federal agencies and other public and private agencies to carry out any of its functions under subsection (a) and to publish and disseminate such reports, findings, studies, and records as it deems appropriate.

(c) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this Act.

(d) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this Act.

MEMBERSHIP

Sec. 6. (a) The Commission shall be composed of fifteen members appointed by the

President, by and with the advice and consent of the Senate. Five members of the Commission shall be professional librarians or information specialists, and the remainder shall be persons having special competence or interest in the needs of our society for library and information services. One of the members of the Commission shall be designated by the President as Chairman of the Commission. The terms of office of members of the Commission shall be five years, except that (1) the terms of office of the members first appointed shall commence on the date of enactment of this Act and shall expire three at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, and three at the end of five years, as designated by the President at the time of appointment, and (2) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(b) Members of the Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Commission or otherwise engaged in the business of the Commission, be entitled to receive compensation at a rate fixed by the Chairman, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, and authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) (1) The Commission is authorized to appoint, without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, such professional and technical personnel as may be necessary to enable it to carry out its functions under this Act.

(2) The Commission may procure, without regard to the civil service or classification laws, temporary and intermittent services of such personnel as is necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. There are hereby authorized to be appropriated \$500,000 for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be appropriated by the Congress for the purposes of carrying out the provisions of this Act.

Mr. YARBOROUGH. Mr. President, I move that the Senate disagree with the amendment of the House of Representatives on S. 1519 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PELL, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. MONDALE, Mr. EAGLETON, Mr. PROUTY, Mr. JAVITS, Mr. DOMINICK, Mr. MURPHY, and Mr. SCHWEIKER conferees on the part of the Senate.

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and carry out imaginative programs to increase the employment opportunities and opportunities for promotion of persons with limited English-speaking ability who are unemployed or underemployed.

"AUTHORIZATION AND DISTRIBUTION OF FUNDS

"Sec. 703. (a) For the purpose of making grants under this title, there is authorized to be appropriated the sum of \$25,000,000 for the fiscal year ending June 30, 1971, \$50,000,000 for the fiscal year ending June 30, 1972, and \$75,000,000 for the fiscal year ending June 30, 1973.

"(b) In determining the distribution of funds under this title the Secretary shall give the highest priority to States and areas within States having the greatest need for programs authorized by this title. Such priorities shall take into consideration the number of persons of limited English-speaking ability who are unemployed or underemployed as determined pursuant to criteria established by the Secretary after consideration of the latest data available to him.

"USES OF FUNDS

"Sec. 704. Grants under this title may be used, in accordance with applications approved under section 705, for—

"(1) planning for an developing programs designed to meet the special manpower needs of persons with limited English-speaking ability including—

"(A) the development of training courses and materials to teach skills and occupations that do not require a high proficiency in English, particularly the development of course materials in languages other than English; and

"(B) the development of training courses and materials designed to increase the technical English vocabulary necessary for the performance of specific occupations likely to provide employment opportunities for such persons;

"(2) providing preservice training designed to prepare persons to participate in bilingual manpower training and placement programs such as instructors, interviewers, counselors, and placement specialists; and

"(3) the establishment, maintenance, and operation of programs, including acquisition of necessary teaching materials and equipment, designed to increase the employment opportunities and the opportunities for promotion of persons with limited English-speaking ability, which may include—

"(A) programs to teach occupational skills in the primary language of any such persons for occupations that do not require a high proficiency in English;

"(B) programs designed to teach specific technical English vocabulary necessary in the performance of specific skills and occupations in demand and which such persons may be reasonably expected to perform;

"(C) programs developed in cooperation with employers designed to increase the English-speaking ability of such persons in order to enhance their opportunities for promotion;

"(D) programs designed to assist any such person to further develop and capitalize on their bilingual abilities for jobs that require such skills; and

"(E) specialized placement programs including supportive services to encourage persons with limited English-speaking ability to find employment and to encourage employers to hire such persons.

"APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

"Sec. 705. (a) A grant under this title may be made to any State or local public agency or to any private non-profit organization, or to any such agency or organization applying jointly, or to any such agency or organization applying with a private employer, upon application to the Secretary at such time, in such manner, and containing or accompanied

by such information as the Secretary deems necessary. Such application shall—

"(1) provide that the programs and projects for which assistance under this title is sought will be administered by, or under the supervision of, the applicant and set forth assurances that the applicant is qualified to administer or supervise such programs or projects;

"(2) set forth a program for carrying out the purposes set forth in section 704 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) provide for such fiscal control and fund-accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the applicant under this title;

"(4) provide assurances that provision has been made for the maximum participation in the projects for which the application is made of persons with limited English-speaking ability who are unemployed or underemployed and who reside in the area to be served by the project; and

"(5) provide for making an annual report and such other reports as the Secretary may reasonably require and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) Applications for grants under this title may be approved by the Secretary only if—

"(1) the application meets the requirements set forth in subsection (a); and

"(2) the programs set forth in the application are consistent with criteria established by the Secretary for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the geographic distribution of persons of limited English-speaking ability who are unemployed or underemployed, (B) the relative need of such persons in different geographic areas within the State for the kind of programs described in section 704, and (C) the relative ability of particular public agencies and private non-profit organizations within the State to carry out those programs.

"(c) Amendments of applications shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as original applications.

"PAYMENTS AND WITHHOLDING

"Sec. 706. (a) The Secretary shall pay to each applicant which has an application approved under this title an amount equal to the total sum expended by the applicant for the purposes set forth therein.

"(b) Whenever the Secretary, after giving reasonable notice and opportunity for hearing to a grant recipient under this title, finds—

"(1) that the program or project for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

"(2) that in the operation of the program or project there is failure to comply substantially with any such provision;

the Secretary shall notify such recipient of his findings and no further payments may be made to such recipient by the Secretary until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Secretary may authorize the continuance of payments with respect to any projects pursuant to this title which are being carried out by such recipient and which are not involved in the noncompliance.

"DEFINITIONS

"Sec. 707. As used in this title—

"(1) the term 'persons of limited English-speaking ability' means persons who come

from environments where the dominant language is other than English; and

"(2) the term 'State' means each of the several States and the District of Columbia."

"STUDY OF USES OF SOLID WASTES RESULTING FROM MINING AND PROCESSING OF COAL—AMENDMENT

AMENDMENT NO. 674

Mr. ALLOTT. Mr. President, I am submitting an amendment intended to be proposed by me to S. 3112, a bill that promises to strengthen our national effort on behalf of a better environment. The bill, as introduced by the Senator from West Virginia (Mr. BYRD), requires an investigation and study, including research, into possible uses of solid wastes resulting from mining and processing of coal.

In my opinion, this bill is sound, and incorporates the vital principles of cooperation between the public and the private sectors. My only purpose and concern in amending the bill is to expand its scope in order to bring these vital principles to bear on a wider variety of environmental problems. I am happy to say that Senator BYRD agrees with this observation and has consented to cosponsor this amendment.

S. 3112 requires the Secretary of the Interior to investigate and study possible uses of solid wastes resulting from mining and processing coal. As the bill stands, such investigation and study shall include, but not be limited to two vital matters. First, it shall concern the possible use of such waste as fuel, in manufacturing, industrial or chemical processes, as road building material and as fill material. Second, the study shall consider the possible acquisition of land on which such waste is located through the power of eminent domain and the subsequent use of such land for public purposes.

It is my opinion that S. 3112 should include not only coal but all forms of mining; and it should not limit the Secretary of the Interior to working through the Office of Coal Research. The Department has many experts in other relevant areas, and they should all be used as the Secretary finds necessary.

The amendment I am submitting would also include two other topics of study: the economic recovery of mining wastes and the use of systems and processes which have been developed by private individuals or companies.

I have long been convinced that our environment problem will be solved not by more policemen, but rather by new knowledge. This is especially true if we are to make our environmental concern compatible with the workings of a strong and productive economy. Mining in its many forms is a vital part of our economic life. It is essential that we become more skillful at reducing the environmental hazards from mining.

In a series of environment statements which I delivered in this Chamber a few months ago I stressed the need for new knowledge.

I remain convinced that the great task of public policy regarding the environment is to shape a creative partnership

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between government and the private sector. The private sector has great reservoirs of talent and inventiveness and the Government can help elicit this. In this regard, it is the task of creative government to devise incentive mechanisms that will encourage industry to turn its inventive genius, research talents and managerial techniques toward solution of the environmental problems that are directly and indirectly related to industrial processes.

The mining industry in the United States has always been progressive as well as vital. It does have a problem of environmental costs relating to production. This does not make the mining industry unique. Many—indeed most—industries have such costs incidental to their normal operations. As the President has said:

"To the extent possible, the price of goods should be made to include the costs of producing and disposing of them without damage to the environment.

It is in all of our interests to avoid unnecessary price rises. To this end, we should welcome any advancements that make it efficient and inexpensive to reduce the monetary costs of avoiding or repairing the environmental damages of all kinds of enterprises. The kinds of study that this bill will encourage will add to the public stock of useful knowledge in this increasingly vital area.

Mr. President, this is why I hope S. 3112 will be amended as I propose, and will become law as part of a growing national drive for a better environment.

Mr. President, I ask that the amendment be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 674) was referred to the Committee on Interior and Insular Affairs, as follows:

AMENDMENT NO. 674

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior shall make a full and complete investigation and study (including necessary research) of methods of utilizing wastes resulting from mining and the processing of minerals and metals recovered.

"Such investigation and study shall include, but not be limited to: (1) the possible use of such waste as fuel, in manufacturing, industrial or chemical processing, as road-building material and as fill material, (2) the possible acquisition of land on which such waste is located through the power of eminent domain and the subsequent use of such land for public purposes, (3) the possible economic recovery of such wastes, and (4) the possible use of systems and processes which have been developed or are being studied by private individuals or companies.

"SEC. 2. The Secretary shall report to Congress not later than one year after the date of enactment of this Act, the results of such investigation and study together with recommendations, as well as those of the affected States (including any necessary legislation), and to uses for, and ways and means of removing, such wastes.

"SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

Amend the title so as to read: "A bill to require an investigation and study, including research, into possible uses of solid wastes resulting from mining and the processing of minerals recovered."

FOREIGN MILITARY SALES
ACT—AMENDMENT

AMENDMENT NO. 675

Mr. GOLDWATER. Mr. President, I submit an amendment, intended to be proposed by me, to H.R. 15628, to amend the Foreign Military Sales Act, and ask unanimous consent to have the amendment printed in the RECORD.

The PRESIDING OFFICER (Mr. SCHWEIKER). The amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 675) is as follows:

AMENDMENT NO. 675

On page 4, line 25, before "In" insert "(a)". On page 5, between lines 18 and 19, insert a new subsection as follows:

"(b) In order to clarify its purpose to support the declared policies of the President toward Southeast Asia, the Congress hereby extends to the President its high commendation and praise for the recent courageous and timely action which he has taken toward an honorable settlement of the Vietnam conflict. The Congress expressly finds that the limited action across the Cambodian border by the United States Armed Forces has been extremely successful as a means—

"(1) to destroy and remove tremendous amounts of enemy military supplies, and seriously disrupt enemy staging and supply bases, illegally located within Cambodia in violation of that nation's neutral status and territorial integrity as guaranteed in the Geneva Accords of 1954, and

"(2) thereby to advance the President's efforts to achieve an honorable peace through Vietnamization by contributing to the establishment of conditions in which (A) the President can make continued major troop withdrawals from Southeast Asia, and (B) the South Vietnamese forces can maintain steady progress in assuming full responsibility for protecting the security of the South Vietnamese people and their right to determine their future free of outside interference."

EMPLOYMENT AND TRAINING OPPORTUNITIES ACT OF 1970—
AMENDMENT

AMENDMENT NO. 676

Mr. MONDALE. Mr. President, on behalf of myself and the Senator from New Jersey (Mr. WILLIAMS), I submit the migrant and seasonal farmworker amendment to S. 3867, the Employment and Training Opportunities Act of 1970.

As a member of the Subcommittee on Employment, Manpower, and Poverty, chaired by the Senator from Wisconsin (Mr. NELSON), and as the chairman of the Migratory Labor Subcommittee, I am particularly aware of the need to develop legislation to help assure that our Nation's manpower programs are meeting the needs of migrant and seasonal farmworkers. The Senator from New Jersey (Mr. WILLIAMS), who for 10 years chaired the Migratory Labor Subcommittee, knows, as well as many of my colleagues, firsthand the need to specifically include

farmworkers in the Nation's manpower programs.

The amendment that I submit today is designed to help guarantee that public service employment and training opportunities reach farmworkers, as well as to provide a focus for a comprehensive analysis of migrant and seasonal farmworker problems and needs.

The Migratory Labor Subcommittee, of which I am chairman, has been conducting a comprehensive investigation of migrant and seasonal farmworker problems during the 91st Congress. From these hearings, it is readily apparent that while the American economic system has worked reasonably well for everyone except the poor, it has abysmally failed the migrant farmworker. In fact, the migrant is practically excluded from the mainstream of our economic system. He is only a limited participant in manpower programs today, and his power to participate in, affect, or improve present manpower development and training programs is severely restricted.

My proposal deals specifically with traditional manpower and economic issues. Migrants have little or no income; their ability to earn is impaired; and their stream of earnings is sporadic and uncertain. More important, however, they lack or are denied the ability to control their income. Unemployment is high, and subemployment and underemployment are pervasive. Their ability to increase their economic power is restricted. Information about jobs is limited and faulty; skill, ability, educational, and motivational levels are low. The demand for their services in agriculture is diminishing due to developing technology and mechanization. Benefits of government programs designed to raise income and make it more certain now, and in the future, are limited or denied. Instead of controlling the economic system, the system controls them.

It is, therefore, not surprising that residents of rural areas lag far behind those in cities in employment, income, schooling, housing, and health care. The unemployment rate of agricultural workers was 6.5 percent in 1966, compared with an unemployment rate of 3.4 percent for workers in other industries. Farmworkers had a median yearly income of less than \$1,000 in 1968, compared with city income of close to \$7,000. Farmworkers had an average of 6.9 years of schooling in 1968, compared with 12.2 years for all men workers. The data on rural health is in like vein.

The causes of this tenuous economic position of farmworkers must be probed, and their exclusion from manpower programs to date must be corrected. There is a great need to carefully assess in detail the extent and nature of this situation and to arrive at solutions. When we know the specific causes and the scope of the economic and manpower problems of migratory farmworkers, we can better suggest remedies for improving the situation. With more complete knowledge and understanding we can hope to guarantee to migrant and seasonal farmworkers the individual sovereignty in our economy to which they are entitled.

Examples of the kinds of activities which could be funded under all categories are teacher training, special remedial programs, guidance and counseling, development of curriculum materials, renovation of buildings, lease or purchase of temporary classrooms, and special community activities associated with projects funded under the Act.

THE URGENCY OF ACTION NOW

It now is late in the legislative year, and very soon it will be the beginning of the next school year.

In the life of the desegregation process, the fall of 1970 has special significance and presents extraordinary problems, inasmuch as all of the school districts which have not yet desegregated must do so by then. The educational problems they confront are enormous, and the related problems of community social and economic adjustments are equally so.

Some 220 school districts are now under court order calling for complete desegregation by this September; 498 districts have submitted, are negotiating or are likely to be negotiating desegregation plans under HEW auspices for total desegregation by this September; another 278 districts are operating under plans begun in 1968 or 1969; more than 500 Northern districts are now under review or likely soon to be under review for possible violations of Title VI of the Civil Rights Act of 1964. Quite beyond these matters of enforcement, we also must come seriously to grips with the fact that of the nation's 8.7 million public school students of minority races, almost 50 percent are in schools with student populations made up 95 percent or more of minority pupils.

Desegregating districts face urgent needs for teachers, education specialists, materials, curriculum revision, equipment and renovation.

Teachers and education specialists for the fall of 1970 are being recruited now. Materials and equipment must be purchased this summer to be on hand for the opening of school. Curriculum revision requires months of preparation. Contracts for renovation must be entered into and work commenced soon.

Administration representatives are now discussing with members of Congress possible ways of making the first of the funds for the purposes of this Act available when they are needed, which is now, through the use of existing legislative authorities.

Five hundred million dollars will be spent in fiscal 1971. I recommend that \$150 million be appropriated under these existing authorities, on an emergency basis, as "start-up" money.

I recommend that the remaining \$350 million for fiscal 1971 and \$1 billion for fiscal 1972 be appropriated under the Emergency School Aid Act itself. It is this Administration's firm intention to spend these funds—\$500 million in fiscal 1971 and \$1 billion in fiscal 1972—in the years for which they are appropriated.

QUALITY AND EQUALITY

If money provided under this Act were spread too thinly, it would have very little impact at all on the specific problems toward which it is addressed. Therefore, the criteria laid down in the Act are designed to insure its use in a manner sufficiently concentrated to produce a significant and measurable effect in those places where it is used.

This is not, and should not be, simply another device for pumping additional money into the public school system. We face educational needs that go far beyond the range or the reach of this Act. But the specific needs the Act addresses are immediate and acute. It represents a shift of priorities. It places a greater share of our resources behind the goal of making the desegregation process work, and making it work now. It also represents a measured step toward the larger goal of extending the proven educa-

tional benefits of integrated education to all children, wherever they live.

Properly used, this \$1.5 billion can represent an enormous contribution to both quality and equality of education in the United States.

With this help, the process of ending *de jure* segregation can be brought to a swift completion with minimum disruption to the process of education. It is in the interest of all of us—North and South alike—to insure that the desegregation process is carried out in a manner that raises the educational standards of the affected schools.

Beyond this, our goal is a system in which education throughout the nation is both equal and excellent, and in which racial barriers cease to exist. This does not mean imposing an arbitrary "racial balance" throughout the nation's school systems. But it should mean aiding and encouraging voluntary efforts by communities which seek to promote a greater degree of racial integration, and to undo the educational effects of racial isolation.

Nothing in this Act is intended either to punish or to reward. Rather, it recognizes that a time of transition, during which local districts bring their practices into accord with national policy, is a time when a special partnership is needed between the Federal Government and the districts most directly affected. It also recognizes that doing a better job of overcoming the adverse educational effects of racial isolation, wherever it exists, benefits not only the community but the nation.

This legislative recommendation should be read in the context of my comprehensive public statement of March 24 on school desegregation. In that, I dealt with questions of philosophy and of policy. Here, I am dealing with two aspects of the process of implementation: aiding the desegregation process required by law, and supporting voluntary community efforts to extend the social and educational benefits of interracial education.

The issues involved in desegregating schools, reducing racial isolation and providing equal educational opportunity are not simple. Many of the questions are profound, the factors complex, the legitimate considerations in conflict, and the answers elusive. Our continuing search, therefore, must be not for the perfect set of answers, but for the most nearly perfect and the most constructive.

Few issues facing us as a nation are of such transcendent importance: important because of the vital role that our public schools play in the nation's life and in its future; because the welfare of our children is at stake; because our national conscience is at stake; and because it presents us a test of our capacity to live together in one nation, in brotherhood and understanding.

The tensions and difficulties of a time of great social change require us to take actions that move beyond the daily debate. This legislation is a first major step in that essential direction.

The education of each of our children affects us all. Time lost in the educational process may never be recovered. I urge that this measure be acted on speedily, because the needs to which it is addressed are uniquely and compellingly needs of the present moment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE REPUBLIC OF VENEZUELA

Mr. KENNEDY. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and (at 12 o'clock and 16 minutes p.m.) the Senate took a recess subject to the call of the Chair.

Thereupon, the Senate, preceded by William H. Wannall, Deputy Sergeant at Arms, and Darrell St. Claire, Chief Clerk, proceeded to the Hall of the House of Representatives to hear an address delivered by His Excellency, Rafael Caldera, the President of Venezuela.

The address delivered by the President of Venezuela appears in the proceedings in the House of Representatives in today's RECORD.

At 1 o'clock and 48 minutes p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. CRANSTON).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 12128. An act for the relief of William Heidman, Jr.;

H.R. 12173. An act for the relief of Mrs. Francine W. Welch;

H.R. 12960. An act to validate the conveyance of certain lands in the State of California by the Southern Pacific Co.;

H.R. 13810. An act for the relief of Lt. Col. Robert L. Poehlein; and

H.J. Res. 746. Joint resolution to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Institute of Geography and History.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 614. An act for the relief of Franz Charles Feldmeier; and

S. 1766. An act for the relief of James Harry Martin.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred, as indicated:

H.R. 12138. An act for the relief of William Heidman, Jr.;

H.R. 12173. An act for the relief of Mrs. Francine M. Welch; and

H.R. 13810. An act for the relief of Lt. Col. Robert L. Poehlein; to the Committee on the Judiciary.

H.R. 12960. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Co.; to the Committee on Interior and Insular Affairs.

H.J. Res. 746. Joint resolution to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Institute of Geography and History; to the Committee on Foreign Relations.

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**AMENDMENT OF THE FOREIGN
MILITARY SALES ACT**

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, is morning business closed?

The PRESIDING OFFICER. Pursuant to the previous order, morning business is closed.

Mr. BYRD of West Virginia. What is the pending question, Mr. President?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 667, offered by the Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

Mr. President, I modify my amendment on line 5 by deleting the word "hasten" and inserting in lieu thereof the word "facilitate."

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam".

Mr. BYRD of West Virginia. Mr. President, my amendment is a perfecting one, and it is designed to amend paragraph 1 of the Cooper-Church language.

Paragraph 1 now reads as follows: "retaining United States forces in Cambodia."

Together with certain words in the preamble, the Cooper-Church language in paragraph 1 now states:

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia

My amendment would add the following words to the language of paragraph 1:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate the withdrawal of United States forces from South Vietnam.

Mr. President, if the Senate accepts my perfecting language, the Cooper-Church amendment would then read as follows, beginning at the comma on line 4 on page 5 of H.R. 15628.

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia, except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be

necessary to protect the lives of United States forces in South Vietnam, or to facilitate withdrawal of United States forces from South Vietnam;

Mr. President, Edward S. Corwin, in his book, "The President—Office and Powers, 1787-1957," made this statement:

Actually, Congress has never adopted any legislation that would seriously cramp the style of a president attempting to break the resistance of an enemy or seeking to assure the safety of the national forces.

It is my opinion, Mr. President, that the Cooper-Church amendment, as now written, would, for the first time in history, dangerously "cramp" the President who seeks to "assure the safety" of American military forces stationed abroad and to expedite and facilitate their ultimate withdrawal from South Vietnam.

Consequently, I have today offered this amendment—No. 669, as modified—to the Cooper-Church language, so as to make it clear that the President, acting as Commander in Chief, will retain his full powers to act to "assure the safety" of our fighting men still stationed in Southeast Asia.

My amendment, I think, is quite clear in its intent. It is also quite clear in its meaning and should require but little explanation by me today. Before addressing my remarks to it, however, I wish to make some comments which I consider relevant to the subject of the constitutional powers of the Congress and the constitutional powers of the President in relation to this whole matter and with particular reference to the Cooper-Church amendment which I seek to change, in part.

For more than a decade now—and under four Presidents, representing both political parties—we have been involved, in varying degrees, in a war in South Vietnam. Our actual participation, insofar as the loss of American fighting men is concerned, dates back to March 1965—although our active involvement began earlier, as I have indicated. Our heaviest losses occurred during the years 1967 to 1968. In those years, we lost 27,569 men. American casualties—as well as those of the enemy—accelerated sharply during the Tet offensive in January 1968. In the month of March 1968, President Johnson made his surprise announcement that he would not be a candidate for re-election, and he announced a halt to the bombing over most of North Vietnam. The peak of American participation, with respect to total American personnel involvement, was 543,482 men—in the month of April 1969.

President Nixon, as did President Johnson before him, has made a sincere effort to enter into meaningful negotiations for peace, but, like his predecessor, has met with no measurable success in this regard. Meanwhile, Mr. Nixon has announced a policy of gradual withdrawal of military personnel, and, in pursuance of that announced policy, has reduced the number of American servicemen in Vietnam from 543,482 men in April 1969 to 428,050 men as of yesterday, June 2, 1970—a total reduction of 115,432 men. Only a few weeks ago, the Pres-

ident announced that 150,000 additional men would be withdrawn by the spring of 1971. President Nixon continues to support a policy leading to the Vietnamization of the war and to a decrease in American involvement. This policy has met with fairly general acceptance throughout the country, and in the Congress, apparently, if we are to judge by the diminution of rhetoric regarding the war in recent months. The President's April 30 televised announcement concerning the incursion into Cambodia triggered a sharp reaction and a mercurial escalation of both rhetoric and protests around the country, and particularly on some of the college and university campuses of the Nation.

Here on the Senate floor we are witnessing a renewed and vigorous debate, which, for some weeks, has been centered upon the so-called Cooper-Church amendment to the Foreign Military Sales Act, H.R. 15628.

Before directing my attention to the Cooper-Church amendment, I wish briefly to state the position I have maintained during the years of American involvement in South Vietnam. Throughout my service in the Senate—the beginning of which service antedates the start of direct American participation in the fighting—I have said very little on the Senate floor or in West Virginia or anywhere else concerning the war in South Vietnam. I have considered myself neither "hawk" nor "dove," to use the common labels. I have, however, supported all appropriations bills providing for the support, the equipping, and the pay of American servicemen in Vietnam. If this makes me a "hawk," it would also characterize practically every sitting Senator as a "hawk" inasmuch as those Senators who have opposed appropriations for the conduct of the war can be numbered on the fingers of one hand, and at least two of these Senators were defeated in subsequent elections.

In supporting appropriations for the war in Vietnam, I have taken the position—and most Senators have apparently viewed the matter likewise—that as long as our country sends men to fight in a foreign land, we ought not be niggardly in appropriating adequate funds for clothing, military pay, ammunition, weapons, and other military hardware, because the least we can do in fulfilling our duty to those fighting men is to provide them with the kind of financial and military support that will enable them to fulfill their military responsibilities and to return home safely.

As to whether or not our country was right in becoming involved, perhaps only future historians will be able to render an objective and fair judgment. It was the view of our leaders—meaning the Chief Executive and his military and civilian advisers—in the previous administrations of Presidents Eisenhower, Kennedy, and Johnson, and now under the administration of President Nixon, that it was in America's best interest that South Vietnam not be taken over by the Communists. Our Government took the position that if South Vietnam were to fall to the Communists, then all of Southeast Asia could, and probably

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"Resolved, That the numbering system adopted be in conformance with data processing requirements of the National Crime Information Center and similar law enforcement data processing facilities; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Attorney General, to the Secretary of Commerce, to the Secretary of Transportation, and to the attorney general of each state."

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"ASSEMBLY JOINT RESOLUTION No. 21

"Relative to flood control projects on the San Joaquin-Kings River Interstream Group

"Whereas, During the months of January and February, 1969, Fresno County experienced record rainfall which produced heavy runoff into the streams of the San Joaquin-Kings River Interstream Group, resulting in largely uncontrolled flows into the Fresno Clovis metropolitan area, as well as other urban and farming areas, the County of Fresno; and

"Whereas, This unprecedented runoff resulted in millions of dollars of damage in the Fresno-Clovis metropolitan area, and the President of the United States has declared Fresno County a disaster area by reason of the severity of the flooding and the resulting damage; and

"Whereas, It is necessary that dams and other facilities be constructed upon the streams in the San Joaquin-Kings River Interstream Group to control such floodwaters during periods of extreme rainfall, so as to avoid a repetition of disastrous floods in the future; and

"Whereas, Congress has made available funds for the conduct of studies by the U.S. Army Corps of Engineers on the need for flood control projects on the San Joaquin-Kings River Interstream Group, but the President has refused to release funds for the conduct of such studies during this fiscal year; and

"Whereas, Due to the urgent need for flood control projects on the San Joaquin-Kings River Interstream Group together with rapidly rising costs, the public interest requires that such studies concerning flood control needs be undertaken at the earliest possible time; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to release for immediate expenditure funds available for the conduct of studies by the U.S. Army Corps of Engineers on the need for flood control projects on the San Joaquin-Kings River Interstream Group; and be it further

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to release for immediate expenditure funds available for the conduct of studies by the U.S. Army Corps of Engineers on the need for flood control projects on the San Joaquin-Kings River Interstream Group; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A Senate concurrent resolution of the

Legislature of the State of Louisiana; to the Committee on Commerce:

"S. CON. RES. 27

"A concurrent resolution to urge Congress to take favorable action on H.R. 16933, which will exempt the riverboat Delta Queen from the restrictions of the Safety at Sea law, thereby enabling this picturesque reminder of bygone days to continue to cruise the Mississippi, Ohio and Tennessee Rivers

"Whereas, the Safety at Sea Law enacted by Congress in 1966 sets ship construction standards for vessels carrying over fifty overnight passengers and Congress has exempted the riverboat Delta Queen from the provisions thereof but said exemption will soon expire and unless affirmative action is taken to exempt the Delta Queen from the Safety at Sea Law, she will be retired from service in November, 1970; and

"Whereas, the Delta Queen is the only remaining riverboat that cruises the Mississippi, Ohio and Tennessee Rivers, and is the source of fond nostalgic memories for those who remember the glorious days of river travel, and also serves as an example of our historic past and American heritage to the younger generation; and

"Whereas, this vessel is solidly constructed, composed of a steel hull and a superstructure containing fine woods of oak, mahogany, teak, walnut and ironwood, and this vessel is equipped with modern safety devices, and in fact, in her forty-two years of service has never been involved in a serious accident; and

"Whereas, the continued operation of the Delta Queen will promote and encourage tourism in this state since the vessel makes more than one stop in this state, and affords passengers who would not otherwise come into this state the opportunity to view the scenic wonders of the state of Louisiana; and

"Whereas, it is within the power of Congress to preserve this living museum so that future generations will have the benefit and joy of seeing and riding on the last real overnight steamboat in America.

"Therefore, be it resolved by the Senate of the Legislature of the state of Louisiana, the House of Representatives thereof concurring, that the Congress of the United States is hereby respectfully urged and requested to take favorable action to enact into law H.R. 16933, or similar legislation proposed in the Congress to exempt the Delta Queen from the Safety at Sea Law thereby enabling this vessel to continue on the American waterways.

"Be it further resolved that copies of this Resolution shall be transmitted to the presiding officers of the two houses of the Congress, to the Chairman of the House Merchant Marine & Fisheries, to the Chairman of the Senate Commerce Committee and to each member of the Louisiana Delegation in Congress.

"Lieutenant Governor and President of the Senate.

"JOHN S. GARRETT,

"Speaker of the House of Representatives."

A resolution adopted by the City Council of the City of Philadelphia, memorializing the President of the United States to authorize the immediate and safe withdrawal of all American forces from Southeast Asia; to the Committee on Foreign Relations.

A letter in the nature of a petition from the Kelly United Methodist Church, Park Manor, Chicago, Ill., praying for the enactment of legislation declaring that each January 15, the birthday of Dr. Martin Luther King, Jr., shall be a national holiday in honor and memory of Dr. King; to the Committee on the Judiciary.

POSTAL REORGANIZATION ACT—
REPORT OF A COMMITTEE—
SUPPLEMENTAL AND INDIVIDUAL
VIEWS (S. REPT. NO. 91-912)

Mr. McGEE, Mr. President, from the Committee on Post Office and Civil Service, I report favorably, with an amendment, the bill (S. 3842) to improve and modernize the postal service, and to establish the U.S. postal service. I ask unanimous consent that the report be printed, together with the supplemental views of the Senator from Indiana (Mr. HARTKE) and individual views of the Senator from Texas (Mr. YARBOROUGH).

The ACTING PRESIDENT pro tempore (Mr. EAGLETON). The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Wyoming.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, without amendment:

H.R. 14306. An act to amend the tobacco marketing provisions of the Agricultural Adjustment Act of 1938, as amended (Rept. No. 91-913).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

H.R. 14300. An act to amend title 44, United States Code, to facilitate the disposal of Government records without sufficient value to warrant their continued preservation, to abolish the Joint Committee on the Disposition of Executive Papers, and for other purposes (Rept. No. 91-914).

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. MCGOVERN:

S. 3912. A bill for the relief of Doan Huu Khan, Nguyen Kim Lan, Doan Kim Bao; to the Committee on the Judiciary.

By Mr. INOUE:

S. 3913. A bill to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes; to the Committee on Armed Services.

S. 3914. A bill for the relief of Satya Harjadi Pujanegara; to the Committee on the Judiciary.

(The remarks of Mr. INOUE when he introduced S. 3913 appear later in the RECORD under the appropriate heading.)

By Mr. CURTIS:

S. 3915. A bill to amend the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce to designate areas in which there has been a loss of population as redevelopment areas; to the Committee on Public Works.

(The remarks of Mr. CURTIS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. TYDINGS (for himself and Mr. HAUSBA):

S. 3916. A bill to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit; to the Committee on the Judiciary.

(The remarks of Mr. TYDINGS when he introduced the bill appear later in the RECORD under the appropriate heading.)

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which we sympathize—that Congress be more involved in foreign policy. What is needed is the type of Congressional-Executive consultation that helped prevent an Indochina expedition in support of the French during the Eisenhower years. But it is not a matter of writing a law but of building an on-going process: a specific piece of legislation is important only to the extent it helps build the basis for a continuing process. As it now stands, casting an ambiguous shadow both on the President's powers as Commander in Chief and on the Nixon doctrine of U.S. assistance for self-help, the Cooper-Church amendment will not build but undermine the process.

Yet it could conceivably be turned into something else if the Senate and the Administration can work together to clarify what it says about the Commander in Chief's powers and to remove the sleeper section. In the process of working out those problems, perhaps the two branches could make a small start toward the trust, understanding and cooperation necessary to truly meaningful consultation on future policy.

AMENDMENT NO. 667

Mr. BYRD of West Virginia. Mr. President, I call up my amendment No. 667 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from West Virginia (Mr. BYRD) proposes an amendment as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to hasten the withdrawal of United States forces from South Vietnam".

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, without relinquishing my right to the floor, I yield to the able assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN).

Mr. GRIFFIN. Mr. President, I shall take only a moment to commend the Senator from West Virginia for offering his amendment. I have examined it very carefully.

Mr. NELSON. Mr. President, may we have order? Senators cannot hear.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Michigan may proceed.

ADDITION OF COSPONSOR

Mr. GRIFFIN. I intend to support it. At this time, I ask if the Senator from West Virginia will kindly permit my name to be added as a cosponsor of his amendment.

Mr. BYRD of West Virginia. Mr. President, I would be highly favored to have the cosponsorship of the Senator from Michigan, and I ask unanimous consent that his name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside until after the joint meeting of the two Houses; that there be a period for

the transaction of routine morning business from now until the Senate recesses to go in a body to the Hall of the House of Representatives, with statements therein limited to 3 minutes; and that following the reconvening of the Senate after the joint meeting, I be recognized immediately.

The PRESIDING OFFICER. If there be no objection to the several requests of the Senator from West Virginia, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on May 28, 1970, the President had approved and signed the following acts:

S. 19. An act to reimburse certain persons for amounts contributed to the Department of the Interior.

S. 1934. An act for the relief of Michel M Goutmann.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. EAGLETON) laid before the Senate a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENTS TO THE BUDGET FOR FISCAL YEAR 1971
(S. Doc. 91-88)

A communication from the President of the United States, transmitting an amendment to the budget for fiscal year 1971 in the amount of \$600,000 for the Office of Emergency Preparedness (with an accompanying paper); to the Committee on Appropriations, and ordered to be printed.

REPORT ON PROPOSED FACILITIES PROJECTS FOR THE ARMY RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Army Reserve subsequent to June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

REPORT ON DISBURSEMENTS OF SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, reporting, pursuant to law, on disbursements made by the Administration; to the Committee on Banking and Currency.

REPORT OF PROJECT PROPOSAL FROM THE ROY WATER CONSERVANCY SUBDISTRICT OF ROY, UTAH

A letter from the Assistant Secretary of the Interior, reporting pursuant to law, the application for a loan in the amount of \$4,845,000 from the Roy Water Conservancy Subdistrict of Roy, Utah; to the Committee on Interior and Insular Affairs.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES, 1969, AND ANNUAL REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS, 1969

A letter from the Acting Director, Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report of the proceedings of the Judicial Conference of the United States, 1969, and the annual report of the Director of the Administrative Office of the U.S. Courts, 1969 (with accompanying reports); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. EAGLETON):

A joint resolution of the Legislature of the State of California: to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION No. 14

"Relative to motor vehicle license plates

"Whereas, The law enforcement agencies of California and other states are increasingly faced with the problem of theft and misuse of automobile license plates; and

"Whereas, Law enforcement agencies rely greatly on license plates for identification of motor vehicles; and

"Whereas, The present method of each state manufacturing a separate metal license plate, with appropriate validation devices, most of which are readily detachable from the vehicle, compounds, in the opinion of most law enforcement executives, the problems of theft and misuse; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct an appropriate agency of the federal government, or form an ad hoc body, to study the feasibility of adopting a permanent numbering device, in the general size and shape as the current standardized motor vehicle license plate, to be permanently affixed to all motor vehicles manufactured for domestic use in the United States, with provision for validation by the several states to satisfy their licensing and registration statutes; and be it further

Senate at least to express its will to the end that there will be no further sudden invasions with their additional casualties and costs, as was the case in Cambodia some weeks ago.

I hope that the pending amendment to the Church-Cooper amendment will be rejected.

Mr. CHURCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes remaining. The proponents of the amendment have 9 minutes remaining.

Mr. CHURCH. Mr. President, I understand that the Senator from Kansas would like to make a final argument on behalf of his amendment. At this time I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, a false issue is being raised in this debate. No one is questioning the right of the President of the United States, acting as Commander in Chief, to go to the rescue of captured Americans if he feels a quick surprise rescue operation is feasible. The rights he possesses under the Constitution, as Commander in Chief, cannot be compromised by Congress. It is, therefore, unfair to assert that Americans who may be captured in Cambodia might somehow suffer if this amendment is rejected. That is a false issue.

The truth is that the President himself set the limits on the Cambodian operation. He himself said American forces would not penetrate into Cambodia more than 21.7 miles. He himself said these forces will be withdrawn by the end of June.

If we were to agree to the amendment offered by the Senator from Kansas, the Senate would be exceeding the limits set on the Cambodian operation by the President himself. We would be authorizing him, despite his own limitations, to retain American forces in Cambodia indefinitely as long as he made a finding that American prisoners of war remained in this country.

Mr. President, if this amendment were agreed to, President Nixon would never invoke it. To invoke it, would be to repudiate his own Cambodian policy. Moreover, if he were ever to invoke it, it would not be to serve the best interests of American prisoners of war. By prolonging our occupation of Cambodian territory, he would be increasing, rather than reducing the number of Americans captured by the enemy and made prisoners of war.

If the Senate wants to serve the best interests of American prisoners of war, we should comply with the policy the President himself set down. It is, thus, incumbent upon us to vote against the amendment offered by the Senator from Kansas. I trust that the Senate will reject the amendment.

Mr. MUSKIE. Mr. President, by no means the least grievous aspect of the war in Vietnam is the inhumane treatment of American prisoners of war by the North Vietnamese. Such treatment, and the continued refusal by the North Vietnamese to even identify those pris-

oners they are holding, is intolerable and offensive to the civilized conscience.

It is equally inexcusable for us to attempt to play politics with the feelings of anguish and despair of those related to American servicemen either missing in action or being held as prisoners of war. Such would be the effect of the Dole amendment, No. 662, to the Foreign Military Sales Act.

This amendment is irrelevant both to the substance of the Cooper-Church amendment and, more importantly, to our future success in negotiating the release of American prisoners of war.

It is an obvious attempt to eradicate any meaning which the Cooper-Church amendment might have.

I am troubled, as we all are, over the POW situation, and I recognize the need to focus concern on this issue. But I will not support a proposal which plays on the emotions of the many Americans deeply concerned over this tragic situation for the stated purpose of freeing the President's hands to continue our involvement in Cambodia.

Mr. THURMOND. Mr. President, I am pleased to take this opportunity to indicate my full support for the pending amendment, No. 662, introduced by my able friend Bob Dole; further, I would like to commend Senator Dole for introducing this vital measure and for presenting it so well.

As we know, Senator Dole has long been a champion for our boys who are being held prisoner in Southeast Asia and for their families and friends who have been so frustrated in their attempts to get word of them. In offering the amendment which we will vote on shortly, the distinguished Senator from Kansas has come through again, not only for that relatively small group, but also for millions of concerned and compassionate individuals throughout the world.

Mr. President, the amendment is very simple. It states in effect that the President shall have the power to operate inside Cambodia in order to protect or rescue American prisoners of war there, notwithstanding the provisions of the Cooper-Church amendment.

Mr. President, this is only a restatement and reaffirmation of constitutional powers which the President now possesses; but considering the temper of the times, it is very necessary that such a restatement be confirmed by the Senate today. As the world watches us closely, we must show that the U.S. Senate does not intend to knuckle under to pressure and abandon our boys who have fought so valiantly for us.

Mr. President, I am proud to be a cosponsor of the Dole prisoner of war amendment, and I urge its overwhelming approval by this body.

Mr. DOLE. Mr. President, may we have the order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I wish to state again that the amendment we are about to vote on was offered in dead seriousness. It is not a frivolous amendment; it is not a travesty. Some say we are holding out hope to wives, mothers, and children of prisoners of war and

those missing in action. Yes, we are holding out hope to the wives, mothers, and children. That is all many of the wives, mothers, and children of American prisoners of war and Americans missing in action have had.

My friends, last night most of us went home and we played with our children and we had dinner. Yes, it was life as usual in this country. It was life as usual for us, but what about the American prisoner of war? What about Americans missing in action?

I do not stand in the Senate today and say that if we agree to the amendment there will be freed one, 10, or 50 American prisoners of war tomorrow or the next day. But at least we would not deprive the President of that right. If we have faith in the President, and many of us do, the amendment provides that if the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front, then the so-called Church-Cooper amendment shall be inoperative. That is all it provides. It would not vitiate the Church-Cooper amendment, and it would not nullify it.

It does strengthen the amendment. It says to American prisoners of war and Americans missing in action that the U.S. Senate on the 3d day of June 1970 strengthened the hand of the President.

To those who say the President has this right in any event, let me say if the President has that right it does no harm to underscore and emphasize that right and make it a part of the Church-Cooper amendment.

Mr. President, to those who say the amendment is limited and should include North Vietnam, Laos, and Thailand, I would hope that other amendments may be offered to so provide. But above all let us hold out some hope for the mothers, wives, and children of the 1,529 American prisoners of war and Americans missing in action. It is a small group and if one adds to this group the 20 or 30 news commentators and camera crews it is still a small group; it does not represent many votes, it cannot mount much pressure, nor is it a lobby organization; but they are Americans and to my friends in the Senate on both sides of the aisle today we can vote for the American prisoners of war and Americans missing in action. We can do no less.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE). The yeas and nays have been ordered, and the clerk will call the roll.

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The assistant legislative clerk called the roll.

Mr. HARTKE. On this vote, I have a pair with the senior Senator from Alabama (Mr. SPARKMAN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. SPARKMAN), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from New Mexico (Mr. ANDERSON).

If present and voting, the Senator from Georgia would vote "yea" and the Senator from New Mexico would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS) and the Senator from California (Mr. MURPHY) are absent on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Hawaii (Mr. FONG), the Senator from South Dakota (Mr. MUNDT), and the Senator from California (Mr. MURPHY) would each vote "yea."

The result was announced—yeas 36, nays 54, as follows:

[No. 152 Leg.]
YEAS—36

Allen	Eastland	McClellan
Allott	Ellender	McGee
Baker	Ervin	Miller
Bellmon	Fannin	Scott
Bennett	Goldwater	Smith, Ill.
Byrd, Va.	Griffin	Stennis
Cannon	Gurney	Stevens
Cook	Hansen	Talmadge
Cotton	Holland	Thurmond
Curtis	Hollins	Tower
Dole	Hruska	Williams, Del.
Dominick	Jordan, Idaho	Young, N. Dak.

NAYS—54

Aiken	Hughes	Packwood
Bayh	Inouye	Pastore
Bible	Jackson	Pearson
Brooke	Javits	Pell
Burdick	Jordan, N.C.	Perce
Byrd, W. Va.	Kennedy	Prouty
Case	Magnuson	Proxmire
Church	Mansfield	Randolph
Cooper	Mathias	Ribicoff
Cranston	McCarthy	Saxbe
Eagleton	McGovern	Schweiker
Fulbright	McIntyre	Smith, Maine
Goodell	Metcalf	Spong
Gore	Mondale	Symington
Gravel	Montoya	Tydings
Harris	Moss	Williams, N.J.
Hart	Muskie	Yarborough
Hatfield	Nelson	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hartke, against.

NOT VOTING—9

Anderson	Fong	Murphy
Boggs	Long	Russell
Dodd	Mundt	Sparkman

So Mr. DOLE's amendment No. 662 was rejected.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, yesterday afternoon I sent a news release to the West Virginia media, as follows:

SENATOR RANDOLPH OPPOSES DOLE AMENDMENT—IS AGAINST TABLING

WASHINGTON.—Senator Jennings Randolph (D-W. Va.), a supporter of the Cooper-Church amendment to the Military Sales Act calling for a pullout from Cambodia, said Tuesday night that he will oppose any motion to table amendments to the Cooper-Church proposition. This, he said, includes the probable tabling motion on an amendment by Senator Robert Dole (R-Kans.) expected Wednesday. "I want amendments voted up or down on their merit, not disposed of by an indirect procedure," Randolph declared.

Randolph said he opposes and will vote against the Dole amendment if the tabling motion is defeated or fails to materialize. The West Virginia Senator said he fears the Dole proposal to change the Cooper-Church amendment and permit the President to send armed forces across international boundaries into countries presumed to hold prisoner our country's military personnel "would be too sweeping." He remarked that it "possibly could spread the air and land war in South Vietnam beyond Cambodia and Laos even into North Vietnam and Red China. It has already gone too far—from a Vietnamese war into an Indochina war."

Mr. President, I am gratified that the amendment was voted on, without an attempt to table it. We need to face these challenging votes with our direct support or opposition on rollcalls.

THE COOPER-CHURCH AMENDMENT

Mr. MILLER. Mr. President, the Wall Street Journal today published a very timely editorial relating to the so-called Cooper-Church amendment.

The editorialist warns that—

It is not a matter of writing a law but of building an ongoing process; a specific piece of legislation is important only to the extent it helps build the basis for a continuing process.

He concludes that the Cooper-Church amendment is not serving this purpose, that—

As it now stands, the amendment casts an ambiguous shadow both on the President's power as Commander in Chief and on the Nixon doctrine of U.S. assistance for self-help.

He pointedly underscores that the amendment "Will not build but undermine the process."

This perceptive editorial merits the attention of the Senate, and I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

THE COOPER-CHURCH AMENDMENT

As the Senate debates the Cooper-Church amendment to cut off funds for certain types of military operations in Cambodia, our biggest headache is trying to figure out what its words mean. Its passage would do more

harm than good unless something is done to clarify what it says, first, about the President's power to strike into Cambodia in protection of American troops already in the field, and second, about policies intended to bolster the non-Communist government in Cambodia.

On its face the amendment seems to say that despite the President's powers as Commander in Chief he cannot undertake military operations in Cambodia even if enemy forces there are attacking or about to attack American troops already in South Vietnam. Either the amendment means this or it means nothing at all with regard to this question; its sponsors seem confused as to which is the case. Witness Senator Church on the Senate floor:

"We do not raise into question here the power the President has as Commander in Chief. He derives that authority from the Constitution itself. We could not deny him his powers under the Constitution if we tried. Nothing in our amendment would interfere with his right to protect American troops in the field or to provide for their immediate needs."

If the amendment does fully preserve the President's right to protect American troops, then it does not change his right to act within Cambodia if his purpose is to protect American troops, as it is in the current operations. If the amendment denies him the right to act in Cambodia regardless of his purpose, then it interferes with his right to protect American troops in ways the Commander in Chief deems necessary. The amendment's sponsors cannot have it both ways.

Both the Constitution and common sense dictate that Congress cannot act as Commander in Chief of troops actually in the field, as it would be doing when it draws lines on military maps in a theater long since drawn into the war by the enemy. It does not wish to say it's different because international boundaries are involved when the enemy constantly violates these boundaries and when the nation involved does not object. Nor does it wish to say Congress is only formalizing limits the President himself has established, since limits are one thing when drawn by the Commander in Chief and another thing when etched into law.

At the amendment's second level, we find another set of considerations. We think it entirely appropriate that Congress concern itself with the broad question of American policy toward the Cambodian government, and in fact we think the Administration should seek to involve Congress here. But once again we are left unsure what policy the Cooper-Church amendment seeks to promote. There is quite a difference between a policy of "no American troops" and a policy of "let the place sink."

The general thrust—and the ostensible defense—of the amendment is to implement a policy of no American troops. It has a sleeper section, however, that could undercut any effort whatever to aid Cambodia in its self-defense. This section prohibits U.S. participation in any agreement to provide military instruction in Cambodia. In other words, the U.S. could not provide technical or financial assistance if the South Vietnamese, Indonesians, Thais, Koreans or others undertook to help Cambodia train its army.

It's difficult to conceive a more wrong-headed provision. If we want to reduce our presence in Asia, regional cooperation is what we should try to promote, not inhibit. Also, the section makes hash of the sponsors' arguments that they only want to help the President follow the policy he has already set, for nothing could be more contradictory to the Nixon doctrine.

Despite all this, the Cooper-Church amendment is directed at a concern with

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It is quite common for governments and public opinion to seek to correct the real or believed policy mistakes of the past. Institutional tinkering is also a device often resorted to in an attempt to avoid previous errors. These attempts almost invariably fail of their well-intentioned purposes.

I attempt to treat both mistakes in a book entitled *Dissent And The State In Peace And War: An Essay on the Grounds of Public Morality*, which will be published by the Dunellen Company in August of this year. Short excerpts are included below:

"Foreign policies are often reactions to past lessons or supposed lessons. Often the public and also statesmen react by changing policies that seemed to fail rather than by adjusting policies to new circumstances. Even those who consider our intervention in Viet Nam as in some sense a 'disaster' should not entirely overlook the problems that were avoided by intervention. Depending upon circumstances, the transformation of the regimes of Southeast Asia into Communist regimes might have given rise—and this is not that unlikely—to a myth of betrayal. Had such a myth developed, this might have led to a later intervention under more explosive and less controllable circumstances.

"These remarks are speculative. However, consideration of one reactive sequence from the past might serve an appropriate cautionary note. For instance, the results of the appeasement process during the 1930's are not so well understood. The usual explanation is that Hitler could easily have been stopped—or even overthrown—in the 1935-1938 period but that British appeasement, particularly at Munich, only whetted his appetite, consolidated his support, and produced the war. The first half of this proposition is correct; but the second half, to the effect that appeasement produced the war, is somewhat misleading, for other intervening variables were necessary to produce war—at least at the time at which it occurred. The British actually stood up to Hitler during the first Czechoslovak crisis in the spring of 1938. The shock produced by their temerity then led, even if not directly and without qualification, to the capitulation at Munich. Disillusionment of the British public with appeasement followed its wholehearted support for the process. The March 1939 occupation of the remainder of Czechoslovakia by Germany led to the ill-advised British rigid guarantee to Poland—a guarantee that constituted a blank cheque for Polish foreign policy. The guarantee to Poland virtually insured German involvement in the West if Germany went to war with Poland and thus minimized the possibility that the German armies would continue eastward against the Russians. Without such an assurance, the pact with the Nazis likely would have looked excessively menacing to Stalin. A direct border with the Germans in the absence of a German war with Britain and France probably would have been the last thing Stalin wanted. However, without the pact with Russia, Germany would have faced a major war on two fronts and, therefore, would not have been as likely to follow a policy leading to general war. Although the description offered here is an oversimplification and surely does not involve logical entailment, it does indicate the extent to which attempts by human beings to correct the errors or supposed errors of the past sometimes lead them into even more compromising predicaments. We might do well to avoid the siren call of those who would like to reverse our policies or even to reverse or to correct in substantial ways our institutional processes in order to guard against the errors of the past.

"There are no facile solutions for the problems of foreign policy. Mistakes are inevitable. Decisions press and there is not enough time to consider any but the most central. The disturbances to the system overload the

capacity for decision making. Efforts to tie the hands of the executive only make the process more cumbersome, more inefficient, more deadly. If the executive runs the risk of operating within an intellectual framework based on a set of fixed ideas and therefore needs criticism and the input of ideas from outside, the one thing it does not require is the further internal complication of the decision-making process. It may need a slap in the face but it does not need its collective arm in a sling.

"Naturally all critics, including this writer, believe they have better solutions for particular problems than does the government. Sometimes we are right. At a minimum, there ought to be effective channels for the communication of these opinions. Some critics, however, seem to feel a need to control the government. They appear not to recognize that others would like to control it from a different point of view. They complain that their advice is not being listened to; but it could be listened to only at the expense of someone else's advice. The president especially must feel a prisoner within a process that includes so many conflicting demands and so much in the way of conflicting advice.

"This attempt to control the government manifests the same neurotic characteristic that the American government sometimes displays in attempting to control every minor situation abroad, even though it lacks appropriate information and administrative personnel. We must learn to control this impulse, both at the governmental and at the private organizational levels, unless we are to impede and eventually corrupt the decision-making process in a way that will be destructive of American values. Foreign policy protests seem to be a curious equivalent of adolescent rebellion; although sometimes there is genuine ground for complaint, the results are rarely salutary.

"The suggestions made by the Senate Foreign Relations Committee for control of American foreign policy are peculiarly unresponsive to the nature of the world in which we live. Senator Fulbright complains that American involvement in Laos was never submitted to the United States Senate for approval. But such submission would have been inconsistent with the objectives of the intervention. It is the informal character of the intervention that allows other states not to overreact. For instance, in the Korean War, the Chinese troops were officially classed as 'volunteers,' although they were in organized Chinese divisions. This fiction allowed the United States to avoid a direct war with China on the Chinese mainland and served valid purposes of both sides. Similar fictions may provide a major barrier to a nuclear escalation in some future crisis or, alternatively, to a severe defeat of American interests.

"Senator Fulbright distrusts executive control of foreign policy. His suggested reforms, however, would hobble policy. They would delay interventions until the situation had deteriorated and until enemy states had so overcommitted themselves that direct confrontations would be difficult to avoid. Although he has argued that the administration had no right to go to war in Vietnam without Senatorial consent, would he have preferred a declaration of war with its implications for dissent and for military escalation? Does he desire to force us to choose in every case between nonintervention and the most radical type of military confrontation?

"The nuclear age is too dangerous a time for such simplistic solutions. Admittedly, great and dangerous discretion now lies in the hands of the executive. But the executive, unlike the Senate, is at least accountable for its mistakes. Moreover, would the Senate have avoided the mistakes Fulbright believes occurred in Vietnam or would it

have supported a declaration of war in 1965 had that been the only alternative then to withdrawal? With the experience of Vietnam behind it, is the executive likely to engage in another major intervention soon in any case? And, after a lapse of five or more years, will the Senate remain the same watchdog it is today—particularly if Vietnam should be taken over by the Communists?

"The executive refused to countenance armed intervention in Vietnam in 1954, largely as a consequence of the experience of Korea. By 1961, this had largely been forgot. The greater danger, even from the senator's present perspective, lies in this mechanical proposals for the control of the executive branch of the government. These would produce unimaginable rigidities in our foreign policy that would be exceptionally inadequate with respect to guerrilla wars and small power confrontations and exceptionally dangerous in crises that might invoke nuclear powers in confrontation.

"Numerous polls have demonstrated that the American public soon wears of limited wars that are fought for limited objectives. On those occasions on which we did intervene, the senator's proposals would reinforce the public impulse for military escalation and total victory. They would sharpen rather than mute alternatives. They would lead to American retreats and then to overreactions. They would minimize the prospects for creative statesmanship and cater to the most simplistic of minds. In that advice lies the prospect of catastrophe in a nuclear age."

Sincerely,

MORTON A. KAPLAN, *Chairman,*
Committee on International Relations.

Mr. ALLOTT. Mr. President, I want to express my deep appreciation to Professor Kaplan for his very serious analytical discussion on this subject, which I think will contribute very much to the debate.

ADDITIONAL STATEMENTS OF SENATORS

COMMENCEMENT ADDRESS BY
ROBERT T. H. DAVIDSON AT
JAMESTOWN COLLEGE

Mr. YOUNG of North Dakota. Mr. President, recently I listened with great interest to a most thought-provoking commencement address by Robert T. H. Davidson at Jamestown College, in Jamestown, N. Dak.

His address deals not only with problems on our campuses today, but of the serious financial difficulties faced by practically all private colleges. Jamestown College is one such college. It has an unusually fine record of quality education and it is one of the outstanding colleges in the Nation.

Mr. President, Mr. Davidson's address deals not only with problems of private colleges, but education in general, and very eloquently.

Mr. President, I ask unanimous consent that the commencement address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

A SKEPTIC'S VIEW OF ACADEMIC EXCELLENCE
(By Robert T. H. Davidson)

Mr. President, Reverend Gentlemen, Members of the Administration, Faculty, Students and friends of the College:

June 5, 1970

File - Assignatory Sales Act
Approved For Release 2005/06/06 : CIA-RDP72-00337R000400080063-8

I would suggest that this intercession take the form of a request to the Democratic Republic of Vietnam that it comply with the terms of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War, of which that government is a signatory.

Failing a satisfactory response by the Democratic Republic of Vietnam to this request, I further suggest that the Swedish Government, in accordance with the 1949 Geneva Convention, offer to intern within Sweden, United States personnel held prisoners of war by the Democratic Republic of Vietnam until agreement can be reached on the release of all prisoners.

Internment within Sweden would assure these Americans of the treatment to which they are entitled by the law of nations and concepts of civilized society.

On the part of the families of these prisoners and the entire American public, I appeal to Your Excellency and the government of Sweden to take all possible steps to secure humane treatment for Americans held as prisoners of war in Southeast Asia.

BOB DOLE
U. S. Senate.

ADMINISTRATION SUPPORT FOR BYRD AMENDMENT

Mr. DOLE. Mr. President, I wish to commend the President of the United States on the letter forwarded to our distinguished minority leader, the senior Senator from Pennsylvania (Mr. SCOTT), in which the President indicates his willingness to compromise and to work out some accommodation with the Senate with reference to the pending business, the so-called Cooper-Church amendment.

The President indicates in clear and concise terms his support for the Byrd amendment. He states that the Byrd amendment does reaffirm his constitutional power and the constitutional power of any Commander in Chief to take necessary action to protect the lives of American forces consistent with his responsibilities and obligations.

I believe that the President by indicating his intentions is saying to the Senate that now is the time for compromise, not the time for confrontation.

I believe that the President has clearly indicated his sincere desire to work out this accommodation. He has indicated his clear concern and clear recognition that we do have certain powers and responsibilities in the Senate when it comes to declaring war and appropriating money for any engagement.

At the same time, the President recognizes, as any Commander in Chief would, his responsibility and his overriding responsibility to protect American forces.

He also suggests in the letter that there be some minor amendment to section 3 of the Cooper-Church amendment so that it does not in any way negate and conflict with the so-called Nixon Asian doctrine announced in Guam last year.

I again must emphasize that President Nixon is the power to peace in Vietnam. He wants to cooperate with the Senate and with the House of Representatives. And he has so demonstrated in his letter to the minority leader under date of June 4, 1970.

FURTHER ACADEMIC SUPPORT FOR THE PRESIDENT'S POSITION

Mr. ALLOTT. Mr. President, yesterday I introduced into the Record some communications I have received from distinguished scholars who have written to me expressing support for the President's position concerning his powers as Commander in Chief.

I have been very pleased by the evidence of widespread academic support for the President's position on this question. I have received many score of very reflective letters and memorandums from colleges and universities in every section of the Nation. I plan to introduce these communications into the Record as we continue to explore these complex issues with proper thoroughness.

Today I want to share with all Senators a most interesting letter I have received from Prof. Morton A. Kaplan.

Professor Kaplan is a member of the department of political science at the University of Chicago. He is also chairman of the Committee on International Relations at the University of Chicago.

His scholarly publications include numerous articles and such books as "System and Process in International Politics," "The Political Foundations of International Law," "United States Foreign Policy: 1945-1955," "The Revolution in World Politics," "Some Problems of Strategic Analysis in International Politics," and "The Communist Coup in Czechoslovakia."

In his letter Professor Kaplan gives a preview of his forthcoming book, "Discontent and the State of Peace and War: An Essay on the Grounds of Public Morality." In this book Professor Kaplan takes exception to some of the very recent thinking of the junior Senator from Arkansas regarding the question of Presidential latitude in the role of Commander in Chief.

Professor Kaplan says this:

The executive refused to countenance armed intervention in Vietnam in 1964, largely as a consequence of the experience of Korea. By 1961, this had largely been forgot. The greater danger, even from the senator's present perspective, lies in his mechanical proposals for the control of the executive branch of government. These would produce unimaginable rigidities in our foreign policy that would be exceptionally inadequate with respect to guerilla wars and the small power confrontations and exceptionally dangerous in crises that might invoke nuclear powers in confrontation.

Numerous polls have demonstrated that the American public soon wearies of limited wars that are fought for limited objectives. On those occasions on which we did intervene, the senator's proposals would reinforce the public impulse for military escalation and total victory. They would sharpen rather than mute alternatives. They would lead to American retreats and then to overreactions. They would minimize the prospects for creative statesmanship and cater to the most simplistic minds. In that advice lies the prospect of catastrophe in a nuclear age.

In his forthcoming book Professor Kaplan gives a very realistic view of the feelings that tempt people to want to bind down the President in foreign dealings:

There are no facile solutions for the problems of foreign policy. Mistakes are inevitable. Decisions press and there is not enough time to consider any but the most central. The disturbances to the system overload the capacity for decision making. Efforts to tie the hands of the executive only make the process more cumbersome, more inefficient, more deadly. If the executive runs the risk of operating within an intellectual framework based on a set of fixed ideas and therefore needs criticism and the input of ideas from outside, the one thing it does not require is the further internal complication of the decision-making process. It may need a slap in the face but it does not need its collective arm in a sling.

Naturally all critics, including this writer, believe they have better solutions for particular problems than does the government. Sometimes we are right. At a minimum, there ought to be effective channels for the communication of these opinions. Some critics, however, seem to feel a need to control the government. They appear not to recognize that others would like to control it from a different point of view. They complain that their advice is not being listened to; but it could be listened to only at the expense of someone else's advice. The president especially must feel a prisoner within a process that includes so many conflicting demands and so much in the way of conflicting advice.

Professor Kaplan is a distinguished scholar who obviously possesses the most rare and precious of the worldly virtues—the virtue of prudence. I would conclude my remarks by calling special attention to the words with which Professor Kaplan begins his letter:

The attempts by some members of the U.S. Senate to control the President's actions in Cambodia in specific, and in foreign policy-making in general, are understandable but, in my opinion, most unwise. Even those who differ profoundly with President Nixon over his conduct of American foreign policy should be wary of attempting institutional adjustments to correct these policies. They cannot substitute their policies for his but run the very real risk of preventing any coherence or rationality in the decision process.

It is quite common for governments and public opinion to seek to correct the real or believed policy mistakes of the past. Institutional tinkering is also a device often resorted to in an attempt to avoid previous errors. These attempts almost invariably fail of their well-intentioned purposes.

I ask unanimous consent to have Professor Kaplan's letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE UNIVERSITY OF CHICAGO,
COMMITTEE ON INTERNATIONAL RELATIONS,
Chicago, Ill., May 22, 1970.
Senator GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: The attempts by some members of the U.S. Senate to control the President's actions in Cambodia in specific, and in foreign policy-making in general, are understandable but, in my opinion, most unwise. Even those who differ profoundly with President Nixon over his conduct of American foreign policy should be wary of attempting institutional adjustments to correct these policies. They cannot substitute their policies for his but run the very real risk of preventing any coherence or rationality in the decision process.

of 1948 to include prisoners of war captured during the Vietnam conflict, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11102) to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such act, and for other purposes.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HALEY, Mr. EDMONDSON, Mr. TAYLOR, Mr. SAYLOR, and Mr. BERRY were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of Virginia. Mr. President, I rise to discuss the Cooper-Church amendment to the Military Sales Act and simultaneously the amendment offered by my distinguished colleague from West Virginia, Senator ROBERT BYRD.

The Cooper-Church amendment provides, among other things, that "in order to avoid the involvement of the United States in a wider war in Indochina and expedite the withdrawal of American forces from Vietnam," no funds may be expended after June 30 for retention of U.S. ground forces in Cambodia, or for conducting any air combat activity over Cambodia other than to interdict the movement of enemy supplies into South Vietnam. This, in essence, is the intent of the amendment.

This amendment has given me a great deal of concern as to just how I should cast my vote.

I favor the objective of the Cooper-Church amendment. I do not want to see the United States become bogged down in a ground war in Cambodia.

Mr. President, 3 years ago, upon my return from Southeast Asia, I made a report on the floor of the Senate.

On April 11, 1967, I said that while

public attention was focused on Vietnam, sooner or later, if the war continued, the problem would be widened and our Nation would be faced with grave decisions regarding Laos and Cambodia.

I want to read at this point a few paragraphs of my speech of 3 years ago:

Our involvement in Asia does not stop with Vietnam.

In order to help the war effort there, we have negotiated with Thailand and have constructed, or are in the process of constructing, four huge military bases there, each of which I visited.

These bases are of great importance to the American military effort in Vietnam.

For example, our giant B-52 bombers heretofore all flown from Guam—a 12-hour round trip to target—will, beginning this month, be operated partially, from Thailand—a 4-hour round trip flight to target.

But our presence in Thailand further commits us in Asia, and it commits us to protect the Kingdom of Thailand.

Visualize, if you will, the map. Vietnam is separated from Thailand by both Laos and Cambodia. In other words, Laos and Cambodia lie between the two countries in which we are currently militarily involved.

The ultimate fate of Laos and Cambodia hangs in doubt with Communist pressure at a high point.

A part of Laos is now an important military base for the Vietcong yet, another part of Laos is cooperating with the United States.

Cambodia claims to be neutral and will not permit the United States to overfly it when U.S. planes go from Thailand to Vietnam. Yet, Cambodia is also a sanctuary for the Vietcong.

Sooner or later, our nation may be faced with grave decisions regarding Laos and Cambodia.

If such is the case and we decide to intervene, we will then have assumed the responsibility for all of what was French Indochina, plus its neighbor, the Kingdom of Thailand. If we conclude not to intervene in Laos and Cambodia, either or both could become another Communist-dominated North Vietnam.

That was my comment in 1967. Today, we are faced with precisely the kind of decision that I foresaw 3 years ago.

The decision is no easier now than it would have been 3 years ago. In some ways it is more difficult, because Communist aggression has spread.

From the very beginning, I have said that the commitment of American ground troops in a land war in Asia was a grave error of judgment.

I have also maintained that the error was compounded by the way in which the war has been conducted. President Johnson and Secretary of Defense McNamara tried to run it out of Washington—with unrealistic reins on the military commanders in the field. It took quite a while before the McNamara concept of a so-called limited war was proved a farce. It prolonged the war and increased the casualties.

The 2 million Americans who have participated in the Vietnam war for the most part did not ask to go there. They were sent there by their Government, most of them having been drafted, taken from their families, homes, and communities and sent to a far-off land to fight.

We now have in Vietnam some 425,000 Americans.

Whether it was wise or unwise to have become involved in Vietnam is not the

question now. We must deal with the situation that exists today.

Our Nation is unified, I believe, in the desire to get out of Vietnam. Our Nation is divided, however, on how best this can be accomplished.

This brings me to Cambodia and to the Church-Cooper amendment.

In late April, there were indications that President Nixon might be called upon to make a decision with regard to going to the aid of the Cambodian Government following the ouster of Prince Norodom Sihanouk.

The President announced that he would address the American people on this subject the night of April 30.

That afternoon in the Senate prior to the President's speech, I urged him not to send American ground troops to fight in Cambodia. I expressed the hope that if aid were to be given in the form of air support, advisers or arms, that it be made clear to the Cambodian Government—and to the American people—that this would not lead to involvement of U.S. combat forces.

I added:

There must be a limit to American involvement in Asia. The United States cannot unilaterally assume the responsibility for the security of all of what was French Indochina.

That evening, the President announced his decision to attack North Vietnamese and Vietcong sanctuaries along the Cambodian-South Vietnamese border—and he sent American troops to accomplish this purpose.

I withheld judgment on the President's decision until I had the opportunity to obtain additional information.

At a White House meeting with the President the following Tuesday, May 5, I was assured, along with other members of the Armed Services Committee, that the President's action was a temporary military tactic for a specific military purpose.

The President stated categorically that no commitments had been made by our Government to guarantee the security of the Cambodian Government. He asserted, too, that all American troops would be withdrawn from Cambodia prior to June 30, and that he had no idea of our becoming bogged down in a ground war in Cambodia.

The President's action, as he explained it, did not contemplate the use of ground forces to fight for Cambodia. The invasion into Cambodia was, he said, for the limited, specific purpose of destroying enemy sanctuaries as a means of protecting U.S. soldiers in South Vietnam. These sanctuaries are within 20 miles of the Vietnamese-Cambodian border.

The invasion of a country with which we are not at war normally is clearly a matter on which the Congress of the United States should be consulted. But the President's action in regard to Cambodia is not a clear-cut example.

It is, to use the President's words, a temporary military tactic for the purpose of protecting American troops in the area adjacent to the enemy sanctuaries.

Nor can Cambodia be considered a neutral nation. The North Vietnamese

and Vietcong have been using Cambodian territory without hindrance.

So I am of two minds in regard to the Cooper-Church proposal:

We already have too many commitments in Asia. I do not want the United States to assume the responsibility of protecting the Government of Cambodia; but I do not want our Commander in Chief to be prevented by legislation from taking reasonable temporary military steps to protect American troops still in Vietnam.

We have a prime obligation to those Americans our Government has sent to Vietnam. They are entitled to full protection.

This brings me to the amendment offered by the Senator from West Virginia (Mr. BYRD). The Byrd amendment would state in effect that while U.S. forces could not be used to protect the Government of Cambodia, they may be used to protect the lives of U.S. forces in South Vietnam, or to expedite the withdrawal of American troops from Vietnam.

If the Byrd amendment were approved by the Senate, then the Cooper-Church proposal, as amended by Mr. BYRD, would say to the President: "We do not want U.S. forces to be used for the protection of the Cambodian Government, but they may be used in Cambodia as a temporary military tactic, if the President deems it necessary to protect American troops in Vietnam, or to facilitate the ending of the Vietnam war."

As stated earlier, I long have been opposed to U.S. involvement in a ground war in Asia. Somehow, that war must be brought to an end.

But, as I see it, there is—at this late date—no good solution.

President Nixon, I am convinced, is making a sincere effort to achieve a solution—and, indeed, already has withdrawn 115,000 U.S. troops. He is pledged to withdraw 150,000 more by next April—50,000 of these by October 15 of this year.

So he is making progress toward reducing American involvement.

If one believes the President is sincere in his desire to bring the war to a reasonable conclusion, is not acting through the Commander in Chief the most effective way to achieve the desired results?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS- CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order of June 5, 1970, requiring the running of the time for debate to begin immediately "after the disposition of the Journal" on tomorrow, be changed to "after approval of the Journal."

The PRESIDING OFFICER (Mr. BENNETT). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF AMENDMENT NO. 667

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to modify my amendment 667 star print to read as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, the specific changes which I would thus be making in amendment 667, if I am permitted to modify my amendment, would be as follows. I would suggest that Senators may wish to read the star print which is on their desks as I attempt to make the precise suggested changes clear.

I would modify amendment 667 to insert the word "only" after the word "taking" on line 3; to delete the words "may be" and insert in lieu thereof the word "is" on line 4; after the word "necessary" on line 4, insert a comma and the following language: "in the exercise of his constitutional powers and duties as Commander in Chief,"; and at the end of the present language on line 6 of amendment 667 delete the quotation marks and the period, insert a semicolon and add the following language:

And the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander-in-Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, that concludes the modification which I propose.

My modification, when taken together with paragraph (1) of the Cooper-Church amendment and language from the preamble of that amendment beginning with the word "unless" on line 3 of page 5, would then read as follows:

Unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary, in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;

Mr. AIKEN. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. If I may proceed for 30 seconds, I will then yield to the Senator from Vermont.

I have asked the able majority leader if he had any objection to my asking that my amendment now be modified—and unanimous consent is required in view of the fact that the Senate has already entered into an agreement to vote on amendment 667 star print as it was written at the time the request was granted. The majority leader has no objection to my offering this modification.

I have talked with the able Senator from Kentucky (Mr. COOPER) and the able Senator from Idaho (Mr. CHURCH), cosponsors of the Cooper-Church amendment, to see if they would have any objection to such unanimous-consent request. They, in turn, have discussed the matter with the able senior Senator from Vermont (Mr. AIKEN).

I have also discussed it with as many of the cosponsors of my amendment on my side of the aisle as I could contact, and I have also discussed it with the able Republican assistant leader (Mr. GRIFFIN), who is a cosponsor on the other side of the aisle.

None of these Senators objects to my offering this modification.

I yield to the able Senator from Vermont.

Mr. AIKEN. Mr. President, my question is: The Senator from West Virginia understands that our troops are now in Cambodia and were sent into Cambodia solely on the basis of the President's constitutional authority and not on the basis of any legislative authority, does he not?

Mr. BYRD of West Virginia. I understand that the President, in taking the action he took on April 30, did so in the proper exercise of his constitutional authority, powers, and duties. I must be frank to say to the able Senator—and this is my own opinion purely—that I believe the Gulf of Tonkin Joint Resolution, which is now Public Law 88-408, gave him additional legal authority under which he could have acted. But the Gulf of Tonkin Resolution notwithstanding, I think the President acted in the proper exercise of his constitutional powers and duties in moving into Cambodia to protect the lives of our men in South Vietnam.